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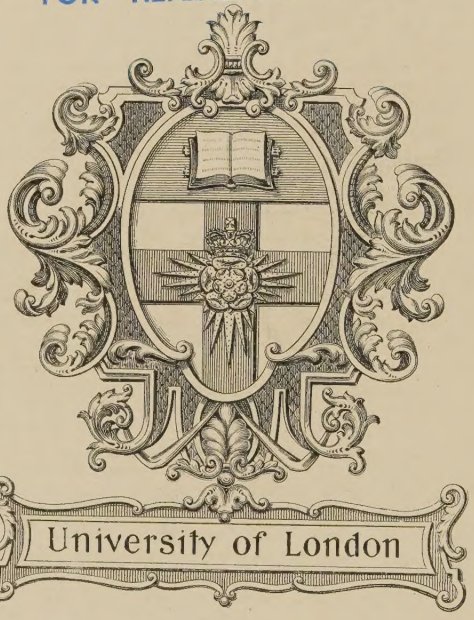

REPORTS

FROM

COMMISSIONERS:

FIFTEEN VOLUMES.

—*(4.)*—

BLEACHING WORKS; COUNTY COURTS;

INNS OF COURT;

MERCANTILE LAWS.

Session

12 *December* 1854——14 *August* 1855.

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REPORTS FROM COMMISSIONERS:

1854-55.

FIFTEEN VOLUMES:—CONTENTS OF THE

FOURTH VOLUME.

N.B.—*THE* Figures *at the* beginning of the line, *correspond with the* N° *at the foot of each* Report; *and the* Figures *at the* end of the line, *refer to the* MS. Paging *of the Volumes arranged for The House of Commons.*

BLEACHING WORKS:

[1943.] REPORT of the COMMISSIONER appointed to inquire how far it may be advisable to extend the Provisions of the Acts for the better Regulation of MILLS and FACTORIES to BLEACHING WORKS, established in certain Parts of the United Kingdom of *Great Britain* and *Ireland*; with the EVIDENCE, and APPENDIX - - - p. 1

COUNTY COURTS:

[1914.] FIRST REPORT of the COMMISSIONERS appointed to inquire into the state of the COUNTY COURTS, and the course of Practice therein, and particularly with respect to the Fees levied in the said Courts; together with an APPENDIX - - - - - - - 149

INNS OF COURT:

[1998.] REPORT of the COMMISSIONERS appointed to inquire into the Arrangements in the INNS of COURT and INNS of CHANCERY, for promoting the Study of the Law and Jurisprudence; together with APPENDICES - - - - - - - - - - 345

MERCANTILE LAWS:

[1977.] SECOND REPORT of the COMMISSIONERS appointed to inquire and ascertain how far the MERCANTILE LAWS in the different parts of the United Kingdom of *Great Britain* and *Ireland* may be advantageously assimilated, and also whether any and what Alterations and Amendments should be made in the Law of Partnership, as regards the Question of the Limited or Unlimited Responsibility of Partners - - - - - - - - - - - 653

BLEACHING WORKS:

REPORT - - - - - - - - - - - - p. 5
EVIDENCE - - - - - - - - - - 39
APPENDIX - - - - - - - - - - 141

COUNTY COURTS:

FIRST REPORT - - - - - - - - - 153
MINUTES OF EVIDENCE - - - - - - - 217

INNS OF COURT:

REPORT - - - - - - - - - - - - 349
MINUTES OF EVIDENCE - - - - - - - - 379
SUGGESTIONS - - - - - - - - - - 491
INDEX - - - - - - - - - - - 645

MERCANTILE LAWS:

SECOND REPORT - - - - - - - - - 657
APPENDIX A. - - - - - - - - - - 687
APPENDIX B. - - - - - - - - - - 779

REPORT

OF THE

COMMISSIONER

APPOINTED

TO INQUIRE HOW FAR IT MAY BE ADVISABLE TO EXTEND THE PROVISIONS OF THE ACTS FOR THE BETTER REGULATION

OF

MILLS AND FACTORIES

TO

BLEACHING WORKS

ESTABLISHED IN CERTAIN PARTS OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND;

WITH THE

EVIDENCE AND APPENDIX.

Presented to both Houses of Parliament by Command of Her Majesty.

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FOR HER MAJESTY'S STATIONERY OFFICE.

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CONTENTS.

COMMISSION TO HUGH SEYMOUR TREMENHEERE, Esq. - - - iii

REPORT:

Lancashire and Cheshire - - - - - - - - - v
Suggestions - - - - - - - - - - xviii
West of Scotland - - - - - - - - - xxi
Ireland - - - - - - - - - - xxix
East of Scotland - - - - - - - - - xxxii
Suggestion - - - - - - - - - - xxxiv
Turkey-red Dye-works - - - - - - - - xxxiv
Yorkshire - - - - - - - - - - xxxvi
Western Counties; Nottinghamshire, &c.; Tiverton; Norwich; Spitalfields - xxxvii

EVIDENCE:

Lancashire and Cheshire (Cotton) - - - - - - - - 1
West of Scotland (Cotton) - - - - - - - - - - 58
Turkey-red Dye-works - - - - - - - - - - 67
Ireland (Linen) - - - - - - - - - - - 73
East of Scotland (Linen) - - - - - - - - - 81
Yorkshire (Wool, Woollen Cloth, Stuffs, Silk, Yarns, and Mixed Goods) - - - 92
Western Counties (Wool and Woollen Cloth) - - - - - - 95
Nottinghamshire, &c. (Hosiery and Lace trade) - - - - - 96
Tiverton, &c. (Lace) - - - - - - - - - - 97
Norwich (Silk, Cotton, Worsted) - - - - - - - - 98
Spitalfields - - - - - - - - - - - 99

APPENDIX A. - - - - - - - - - - - 100
„ B. - - - - - - - - - - - 100
„ C. - - - - - - - - - - - 102
„ D. - - - - - - - - - - - 103

COMMISSION.

VICTORIA R.

L. S.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith: To Our trusty and well-beloved Hugh Seymour Tremenheere, Esquire; Greeting:

Whereas it appears to Us expedient that a Commission should forthwith issue, for the Purpose of making due Inquiry how far it may be advisable to extend the Provisions of the Acts for the better Regulation of Mills and Factories to Bleaching Works established in certain Parts of Our United Kingdom of Great Britain and Ireland: Now know ye, that We, being well satisfied of your Zeal and Ability, have authorized and appointed, and do by these Presents authorize and appoint, you, the said Hugh Seymour Tremenheere, to be Our Commissioner for the Purposes aforesaid.

And We do also give and grant to you full Power and Authority to call before you such Persons as you shall judge likely to afford you any Information upon the subject of this Our Commission, and to inquire of and concerning the Premises by all other lawful ways and means whatsoever.

And We do by these Presents will and ordain, that this Our Commission shall continue in full force and virtue, and that you Our said Commissioner may from Time to Time proceed in the execution thereof, and of every Matter and Thing therein contained, although the same be not continued from Time to Time by Adjournment.

And Our further Will and Pleasure is, that you, Our said Commissioner, upon due Inquiry into the Premises, do report to Us in Writing, under your Hand and Seal, your several Proceedings under and by virtue of this Our Commission, together with what you shall find touching or concerning the Premises.

And We further ordain, that you may have Liberty to report to Us your Proceedings under this Our Commission from Time to Time, should you judge it expedient so to do.

Given at Our Court at Saint James's, the Thirtieth Day of November 1854, in the Eighteenth Year of Our Reign.

By Her Majesty's Command,
(Signed) G. GREY.

REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

YOUR MAJESTY having been pleased to appoint me Your Majesty's Commissioner to inquire how far it may be advisable to extend the Provisions of the Acts for the better Regulation of Mills and Factories to Bleaching Works established in certain Portions of the United Kingdom of Great Britain and Ireland, I humbly beg to submit to Your Majesty the result of my inquiries in the following Report.

REPORT RELATING TO THE BLEACHING, FINISHING, AND DYEING ESTABLISHMENTS FOR COTTON GOODS, IN LANCASHIRE AND CHESHIRE.

THE principal seat of the business of bleaching the various kinds of cotton cloth, and muslins, is at and in the immediate neighbourhood of Bolton in Lancashire.

The occupations of "finishing," and also of dyeing, are so intimately connected, in so many cases, with those of bleaching, that it was essential to comprehend them in this inquiry.

In the town of Manchester there are several establishments for finishing and dyeing, and in and near the adjoining town of Salford there are similiar establishments, and also others for the bleaching, finishing, and dyeing of fustians and other varieties of cotton goods.

The bleaching process for cotton goods, which used formerly to be performed in the open air and upon the grass (as is still the case to a great extent in the bleaching of linen, in Scotland and Ireland), is now effected by chemical agents and by machinery under cover.

The principal processes incidental to the bleaching, are marking with the needle the pieces of cloth with the initials or some private mark of the owner; sewing or pasting the ends of several pieces together, to facilitate their being taken through most of the subsequent processes by machinery; and passing these pieces so sewn together over hot plates or jets of gas, to singe off the small useless fibres, which latter process is called "dressing."

All the processes which cotton goods are put through by the bleacher subsequently to the mere bleaching, are termed "finishing," and consist principally of mangling, drying, "calendering," or passing under rollers, and "hooking," or otherwise folding preparatory to the pieces of cloth being "made up" into the form in which they are seen in the hands of the shop-keeper, with a label or stamp, or the name of the firm, pasted or impressed upon them. Several of these pieces are then put together in packages, and in that form are sent to their destination.

When the goods are dyed by the bleacher, or by a separate dyer, the dyeing process is also considered as a part of the "finishing," and both bleachers and dyers aim at producing a "finish" to goods, white or coloured, which shall recommend them to their customers, and if possible make them indispensable to the latter for the particular kind of "finish," for which they have acquired a name. The merit of this "finish" consists in the particular gloss or particular appearance which the bleacher or dyer can give to the particular kind and quality of cloth, coarse or fine, which is sent to him in the grey state, and is prepared either bleached or coloured for the home or foreign market.

Goods for the home market require more care, and the bleacher or dyer demands more time from the merchant to execute an order than he does in preparing a similar order for the foreign market.

The bleacher and the dyer are, as respects the material upon which they have to operate, in a different position from that of the factory owner. The latter works upon his own materials, and can exercise his option as to whether he will buy more or less, and whether, when trade is not promising, he will continue purchasing cotton and converting it into cloth, i.e., whether he will "work to stock". The bleacher, and finisher, and dyer are, in nearly all cases, as they term it, merely "the servants of the public," i.e., of the merchants who purchase the grey cloth, and send it to be prepared according to their own opinion of the demands of the various markets, or according to the commissions to purchase which they receive from their correspondents at home and abroad.

The females and boys are employed principally in the finishing and making up departments.

Boys and a few females are also employed in the bleaching and dyeing processes, or in the operations incidental thereto.

The question to be determined is, are the hours of work injuriously long for females and boys in these departments of labour? If they are, can they be shortened, and to what extent, without endangering the prosperity of those important branches of business?

The facts, as respects the actual hours worked at the bleaching and finishing works, are these:—

Some masters will have so much employment as to keep their "hands" at work for twelve months together from between 6 and 7 in the morning until 8, 9, and 10 at night; and a portion of their "hands" will occasionally work on to a later hour, and sometimes nearly all night, for two or three nights together.

Other masters will be supplied with full work from the merchants during the winter and spring months principally, and their people will work in the same manner and to the same extent as above described. The supply of work will then decline gradually until towards autumn, when it will be lightest, and the work-people will not be employed for the whole day for perhaps many weeks together.

The course of business at other works will be, that the demands upon them will vary from three months to three months, keeping them alternately busy and slack for those periods. Other works, again, will be busy for some time during alternate months; at others, they will have two or three busy months together, succeeded by two or three slack months, while on the other hand other works may be less continuously busy and slack, and may vary from week to week. (See example at Messrs. Blair's works. Evidence, pp. 27 to 31.)

The evidence shows that both at the large and small bleaching and finishing works a very common state of things is, that the work goes on for those "long hours" (as they are called) continuously for many months together, in some instances for so many as six months, in others for twelve months and more together.

A list of the bleaching and finishing works in Lancashire and Cheshire was furnished to me by the Chairman of the Bleachers' Association, Mr. J. H. Ainsworth, which will be found at p. 19 of the Evidence. It is not a complete list, but contains the names of 35 establishments.

I was informed by Mr. Ainsworth and other gentlemen that, in order to obtain the general facts applicable to the whole trade, it would be sufficient for me to visit ten or a dozen of those establishments. I visited and took evidence at 17, nine of the rest being small works employing from 50 to under 100 hands; and I also visited ten others not upon that list, in the neighbourhood of Manchester.

My conclusions, therefore, are drawn from the evidence there taken, and from my own observations; also from the evidence of several working men, members of the Operative Bleachers' Short Time Committee, and of men whom they brought before me. The evidence of these working men I submitted to Mr. Ainsworth, as Chairman of the Association of the Master Bleachers, with the request that he would communicate it to a committee of the masters, or to any individual masters to whom he might wish to send it; and I invited their replies or objections to any of the statements it contained.

The evidence of Mr. Ainsworth subsequently taken will show how little exception he made to it; nor have any other adverse criticisms upon it reached me beyond the very natural ones of charging some of the workmen's statements with exaggeration or error. Some of the statements made by a few of them are doubtless liable to that criticism; but their evidence as a whole is amply

borne out by the testimony I collected myself. The whole of the evidence collected by myself was read over, as it was taken down, to the persons giving it, and, in the case of that of the work-people, read over also to some one in authority on the spot, for their objections, or their assent to its correctness.

The main facts, indeed, as regards the "long hours," are admitted by the masters chiefly concerned; but they answer, first, that those hours do no harm to the great majority of their work-people, females, boys, or men; that there is not a more healthy set of work-people than those employed in the Bleaching and Finishing Works; that the occupation is itself a very healthy one, and is greatly preferred to the factories; that although these hours appear long, the "hands" have often intervals of rest beyond their regular meal-times; and many of them employ those hours or shorter periods in taking up a book and reading, or in walking out into the open air until the work they are waiting for is ready for them.

I think it would be more exact to say that all the processes and places of work are not likely to be injurious to health. The finishing and making up, which employs the greater number of females and boys, is carried on in rooms generally large, airy, and clean, free from those floating particles of cotton, and the smell of oil and other circumstances, which are found noxious and disagreeable in the factories. The various bleaching processes expose the people employed to much wet and damp, which in cold weather cannot but be much felt by the boys in some of these processes. In the stoves and other drying places, and in the dressing places, the work-people are exposed to very high temperatures, in some places continuously, in others not. In the "clamping-rooms," which are heated, men and boys are chiefly employed, but in no great numbers; and where a few females continue to be so in the English bleach-works, it is looked upon as a circumstance requiring to be put an end to spontaneously by the employer. Some of the smaller places of work, especially in and about Manchester, were very close, and likely to be injurious to health.

That they are a very respectable class of work-people, is also open to common observation. Their earnings are considerable, and many have doubtless profited by the periods of slack time, which occur with more or less frequency at different works, to improve their minds; and of the advantage that they have taken of opportunities of instruction, by means of schools and libraries, I observed several instances of the kind above noticed, namely, that both boys and females were occupying a leisure moment with reading, while waiting for work.

That the great majority of persons employed in the bleaching and finishing works are of a very healthy appearance, is also true. It was also stated to me by several masters that the evidence of "Sick Funds" shows that as a rule they are so.

But this fact is subject to some important corrections.

First, it is universally admitted that none but those possessed of healthy and robust constitutions can stand the "long hours" of work to which they are from time to time subject, especially if, as is often the case, the work itself is laborious.

It is a common expression, I found, at those works to say, when any one is observed to be declining in health, "this work is too heavy for him (or her); he (or she) ought to be put to some lighter business."

Too much weight, as it appears to me, is attributed to the fact that occasionally during the day intervals of rest occur in addition to the hours of meals. Such intervals may occur not unfrequently when the work throughout the establishment is "slack;" but just at the time when those intervals would be of most value, namely, when there is full work and the hours are the longest, those occasions are likely to be less frequent, and will probably only arise from an accidental stoppage of the machinery, or from some want of arrangement which it must be the desire of the manager to prevent. Certain it is that among the numerous work-people to whom I put questions, very few admitted that such periods often occurred, with this exception,—that the time allowed for meals was not strictly enforced, but was often exceeded by ten minutes or a quarter of an hour at each meal; also that, although they were ordered to come in the morning at a certain hour (half-past 5, 6, or 7), they were not always punctual, and that punctuality in that respect was not enforced. Deductions to the extent of those extras periods of rest (as well as the ordinary meal-times) must therefore in most cases be made from the hours of actual work, whenever it is stated that the hours are from 6 a.m. to 8, 9, or 10 p.m., or to any

other hour. But those deductions will not affect the general conclusion that the work is injurious to the health of many who have undertaken it, and have been obliged to give it up from finding it to be too much for them.

I am prepared also very confidently to state, that in every one of the bleaching and finishing works which I visited, and in which those "long hours" had been common, I observed very many boys, girls, young men, and young women, both pale and sickly in their appearance, and stunted in their growth, and bearing evident marks in their general aspect of being injuriously affected by excess of labour.

It may be fairly presumed that gentlemen in the conspicuous and responsible position of clergymen and medical men would not affix their names to any document containing an assertion of a fact, without a full conviction of its truth, resting on a competent amount of knowledge. The testimony of such persons may therefore be appealed to with confidence, in corroboration of the facts which were indeed observed by me for the first time, and without any previous acquaintance whatever with bleach-works, or any circumstance connected with them, but which have been for years under the immediate observation of the gentlemen to whom I am about to refer. Nearly the whole of the medical gentlemen and clergymen of Bolton, and a very considerable number both of Manchester and Salford, have recently signed petitions to Parliament (copies of which, with the signatures annexed, I add (Evidence p. 12, and Appendix B.), referring to the injurious consequences, both bodily and mental, of those "long hours," to those exposed to them, and praying the Legislature to provide a remedy.

The numerous statements to the above effect, of persons employed, of both sexes, which I took down from them in as nearly as possible their own words, fully establish the injurious consequences to health, arising from those prolonged hours of labour.

They establish also another point, not I apprehend beneath the attention of the Legislature in estimating the necessity for its interference ; namely, the prevalence of physical suffering among the young of both sexes (sometimes independent of, sometimes indicative of and contributing to, actual disease),occasioned by those long hours of work.

The young persons, male and female, whose testimony I collected on that point, were occasionally selected by me from their appearance indicating that they were suffering from excessive work; but in the great majority of cases I put questions to several as they stood at their work in succession, and recorded their answers. Their evidence does not admit of abridgment, but it will be found to be an almost unvaried recital of their then suffering, or of their having suffered, from sore feet, swelled ankles, pains in the legs, and other ailments, besides the fatigue which necessarily followed such prolonged labour.

It may be said that the "sore feet" (which are complained of chiefly in summer) arise from the practice of wearing wooden clogs and woollen stockings. But as this is almost the universal practice in Lancashire, the soreness of feet must be attributed to the length of hours during which the children and young people are on their feet, and moving about with more or less rapidity. The work in which the young are chiefly employed is "hooking" the pieces of cotton cloth, or muslin, on thin steel spikes about four inches long, set on the edge of a light frame about three and a half feet from the ground. The spikes are placed at the distance apart required for each fold of the cloth. The children bring the piece on their backs from a neighbouring pile, throw it down on a low platform or box close to the frame, and then commence hooking it by the edge, fold by fold, until it is all transferred to the hooks. They then lift it off, and throw it upon a table behind them, at which stands a woman or a man, who again folds the entire piece into the narrow compass in which it is seen in the shops. Two "hookers" generally keep one man or woman in full employ ; each "hooker" must therefore get on with the work as quickly as his or her skill permits, and when they have become expert, they go on with considerable rapidity, bending and stepping from right to left, and from left to right, hooking the edge, and smoothing down the cloth, fold by fold, as it hangs.* Thus also the swelled ankles and pains in the limbs, so generally complained of by the girls and young women, are

* The sore and cut fingers which are so common are, from the nature of the work, unavoidable.

directly referrible to the many hours that they are on their feet, and to the almost constant and sometimes rapid movement required.

Mr. J. H. Ainsworth, Chairman of the Bleachers' Association, and employing the largest number of workpeople in any one set of works in the trade, states in his evidence (p. 13.) that he is ready to admit that the hours of work have at times been too long for females and boys. Mr. Hardcastle, who in two works employs more persons than any other master of bleach-works, in his evidence (p. 19.) limits his admission to the case of females under 18. Both those gentlemen, however, are adverse to legislative interference; both object to it "on principle;" at the same time both throw out propositions for consideration, respecting the mode and the extent of the interference, which would be, according to their views, least injurious to the trade, supposing Parliament to decide that some limitation of the hours of labour for females and boys is necessary. Both assert that in their opinion the question is "surrounded with difficulties," which present great obstacles to any other than their present arrangements, and both attribute the necessity under which they lie to call upon their people to work those long hours, almost exclusively to the sudden orders which they are liable to receive from the merchants to prepare goods for shipment by a certain day.

I am able to say that very few of the employers justified the long hours for the young, in themselves; nearly all were prepared to admit that they were not desirable; that they were attended with many disadvantages, and sometimes with more loss than gain to the master; some, to whom I shall again advert, avoided them as much as possible, and very seldom resorted to them; and the whole of the masters who did, threw the responsibility upon the merchants, and appealed to the necessities of trade under which the merchants were placed, as their justification.

It became necessary for me, therefore, to seek the opinions of the principal Manchester merchants upon this point; and accordingly, Mr. Ainsworth, Mr. Hardcastle, Mr. Ridgway Bridson, and Mr. Bealey, who, with Messrs. Blair and Summer, are deemed generally to represent the bleaching and finishing trade of that part of the country, named to me fourteen of the principal mercantile firms of Manchester, whom they wished me to consult upon the subject; to nearly all of whom I was forthwith furnished with letters of introduction, conveying the wishes of the bleach-masters that those firms should express their opinions to me upon the point in question.

The argument of the masters had been to the following effect. The merchant was in the constant habit of receiving orders from his correspondents at home and abroad to send out a certain quantity of goods of a certain quality and "finish," "by the next steamer," or by a ship advertised to sail on a certain day. The merchant then went into the market, purchased the goods in the grey or unbleached state, and, having ascertained from the bleacher that he could bleach and finish them in the manner required by the day named, gave directions to the bleacher to send for them accordingly. Certain bleachers, they say, have a name in the trade for certain "finishes," and (as a general rule) one bleacher cannot execute the "finish" of another; neither, if he could, would the merchant run the risk of sending cloth ordered to be of "the finish" of a certain specified kind well known to the customer, or of a certain named bleacher, to be bleached and finished by another. Consequently, if the cloth could not be bleached and finished by the particular bleacher by the day named, the order would be lost. Again, if the question related to the commoner kinds of cotton cloth (shirtings, &c.), and the merchant or shipper, being desirous to send a certain quantity in a bleached state to a foreign market, by a certain ship, found any obstacle in the way of getting the cloth bleached by the required day, he might send it out unbleached, and the bleacher would lose so much employment. The bleachers urged that, as regarded certain "season markets," it was particularly important to their trade to be able to execute orders rapidly, otherwise the goods would arrive too late for the current season; or, if there were any risk of that, they would not be sent to be bleached at all. When such orders accumulate, the masters are obliged to call upon their workpeople to work long hours. To interfere by law to prevent their employing females and boys as they do at present (sometimes twelve, fourteen, and sixteen hours a day for many months together, and occasionally for a few days much longer hours), would be, they affirm, not only very injurious to the bleaching and finishing business, but, in the words of Mr. Hardcastle (§ 173.), would "endanger most materially the prosperity of the

cotton manufacture generally." Mr. Hardcastle and other gentlemen in the bleaching trade also expressed an apprehension that any such interference with the labour of females and boys, which might "hamper the trade," or "add materially to the expense of production," would tend to exclude bleached goods from foreign markets, from some of which certain kinds had already been excluded by foreign competition.

It will be immediately felt that, if the above arguments were borne out by the concurrent testimony of the principal merchants of Manchester, to whom the bleach-masters referred in support of their views, considerations of a very grave and important nature would interpose to obstruct the humane desires of the Legislature, or at all events to limit its interference to the smallest possible measure consistent with giving some amount of protection to the young engaged in those employments.

But on going carefully and minutely into the question with those merchants, I found that four only supported the views of the masters; the remaining ten, as will be seen by reference to the evidence (pp. 33 to 39.), acknowledging that in certain cases the arguments of the masters held good, were nevertheless of opinion that upon the whole the restriction of the labour of females and boys in the bleaching and finishing works "would make very little difference" to any one; that it would be attended with no danger to the great mercantile interests of the country engaged in the cotton trade; that the difficulty of adopting the restriction was more in apprehension than in reality, and that it would soon be got over; that all parties would soon learn to accommodate themselves to it; and that in the end it would be better for all parties, bleaching-masters and workpeople, and even the merchants themselves.

The gentlemen who expressed those opinions to me, and permitted me to reduce them to writing, and to give them on their authority, were Messrs. Barbour and Fleming; Messrs. Pender and Cowan; Mr. Scott, partner in the firm of Jones, Brothers and Co.; Mr. Leisler, partner of the firm of Du Fay and Co.; Mr. Leopold Reiss; Mr. J. Slagg; Mr. A. S. Thornton; Mr. Kling, of the firm of Reus and Kling; Mr. Mather, of the establishment of Messrs. Bannerman; and Messrs. Schunk and Souchay, as conversant with the Continental trade.

Those names will be at once recognized as comprising nearly the whole of the principal mercantile firms in Manchester, the nature of whose business causes them to be in frequent communication with the bleachers, and acquainted with the peculiarities of their trade.

Mr. Kershaw, M.P., concurred in opinion with the masters. The gentleman, however, to whom I was presented by Mr. Kershaw as more immediately in charge of the portion of his business connected with the bleachers (Mr. Berry), although not wishing that a detailed statement of his should be reduced to writing, expressed to me his general concurrence in the views embodied in the evidence of Mr. Scott. Messrs. Tootal and Broadbent supported in part the views of the masters. Mr. Dorrington also takes the same views, but nevertheless expressed the opinion that children in bleach-works ought not to be employed below the age of 12 or 14, and that females under age should also, in regard to their hours of work, come under some legislative restriction.

I cannot refrain from expressing my sense of the great courtesy and patience of the whole of the above-named gentlemen, in permitting me to occupy their valuable time in informing myself of their opinions upon a matter so foreign to my own pursuits, and upon which, therefore, I had the more difficulty in arriving at a clear understanding.

I regret that a misapprehension prevented my having the benefit of recording the opinion of Mr. Henry, whose firm is one of the largest in Manchester. I have, however, reason to believe that Mr. Henry would concur entirely with the views of the masters.

The general purport of the evidence of the ten gentlemen above named is as follows:—

Of the two great markets for bleached goods, the home and the foreign, the home has become much less a "season trade" than it formerly was, in consequence of the facilities afforded by railways; the purchasers, instead of laying in large stocks at a time, come down to Manchester every few weeks and select what

they require. The merchants, therefore, are, as a general rule, prepared with a stock on hand of the goods they may require, sufficient for current consumption, and can in most cases see a certain time before-hand what goods they may have to send to the bleachers. Of the foreign markets the American is, in consequence of the extension of railways both in Canada and the United States, and the frequency of communication from this country, becoming less and less a "season market." The South American and Australian, Levant, and Continental markets are also but little affected by seasons, and to them, and also (to a considerable extent) to the India and China markets, the great stream of export traffic goes on all the year round. It might occasionally happen that towards the end of certain seasons, for the Indian and South American markets especially, if an order for goods could not be despatched quickly it might be lost, or the goods, if sent, might arrive too late; but those would be, in amount, unimportant cases, compared with the great mass of the exports of such goods; and even if, from any circumstance, any particular market was left bare for a time of any one description of goods, if there were a legitimate demand for it, that demand would be supplied the next season, or after a certain interval. The supply of the article would not be lost to this country, although the execution of a particular order might be lost by one merchant or one bleacher.

The possible loss of an order, or inability to execute one within as short a time as at present, consequent upon any restriction of the hours of labour of females and boys, applies almost exclusively to fine or fancy goods. These are bleached and finished by a comparatively small number of bleachers, two of whom (Mr. Ainsworth and Mr. Ridgway Bridson) are said to prepare as much of this description of goods as the whole of the rest of the trade put together. The bleachers of fine goods maintain that, as they have a particular finish of their own, and as a large quantity of cloth may be sent to them requiring that finish, and to be ready to be shipped on a certain day, the merchant cannot send such cloth to any other bleacher; and any restriction upon the labour of any of their workpeople might occasion them to lose the order altogether. But it must be borne in mind that, if the merchant must come to them, he must also give them time to execute the order; he is in fact dependent upon them; and if they could now, working sixteen hours a day, execute a given order in three days, he would have to wait an additional day if the hours were limited to twelve. If a restriction of hours to that amount did take place in consequence of any legislative enactment, without any corresponding increase of productive power (which is improbable) a particular shipping order for delivery towards the end of a certain season might be lost, but the great stream of export would remain unaffected as long as the particular class of goods were wanted in the foreign markets.

But the export of fine goods, and the bleaching and finishing of fine goods, form but a small proportion of the great bleaching finishing business of this country.

For the bleaching and finishing of the more common kinds of cotton cloth, which are the great staple of manufacture and export in this branch of manufacture and commerce, the merchants are not "tied to any particular bleacher;" and if a large order were suddenly given for goods of those common kinds, to be bleached and finished by a certain day, there would be no difficulty, as a general rule, in dividing the goods among several bleachers, instead of sending them all to one.

If a Bill were to pass limiting the hours of labour for females and boys, an immediate effort would in all probability be made by the masters in the bleaching and finishing business, to enlarge their works and improve their machinery; for the competition among them is represented to be so keen, that rather than lose an order, and with that possibly a certain portion of their "connexion," they would endeavour, to the utmost of their power, to obtain the means of getting through the same amount of work in a given number of days, as they can now do with their present unlimited power of employing females and boys for fifteen, sixteen, eighteen, or more hours per day.

In order to enable them to do so with profit, they must, either by improved management or by improved machinery, reduce their costs, or they must obtain a higher price for the work done.

The evidence shows that there is, in many instances, room for improved management, whereby a greater amount of work could be got through with advantage in a given time, by greater punctuality, or by more economical

internal arrangements; that in other works well known improvements in machinery, and consequent facilities for saving time and economizing labour, have not yet been introduced; and that in several works of the most importance, not only have these improvements of machinery and arrangement been already effected, but, within the last two years, in anticipation of some measure for limiting the hours of labour for females and boys, considerable additions have been made, and are now making, both to their buildings and machinery, which, when fully brought into play, will give them greatly augmented means of getting through speedily an increased quantity of work.

The question may be asked, what are the grounds for supposing that such additional outlay of capital in this particular branch of business is prudent and justifiable? If more economical management, or a reduction in the cost of labour, or a larger amount of business, or a more regular distribution of it throughout the year (which would prevent so much of their capital lying comparatively idle for weeks together, as is sometimes the case at present), cannot be looked to with certainty to afford interest and profit upon that additional outlay, can an increase of the price now paid for bleaching and finishing be asked from the merchant and acceded to by him without danger to the great mercantile and commercial interests involved in that branch of manufacture?

The almost universal concurrence of opinion among the great mercantile firms of Manchester, to whom I was referred by the bleachers for information upon this matter, and the plain facts of the case, may be held to remove all doubt upon this portion of the subject.

The cost of bleaching and finishing the various kinds of cotton goods, in pieces of from twenty to fifty yards in length, and costing in the unbleached state from 2*s.* 6*d.* to 15*s.* per piece, is from 2½*d.* to 1*s.* per piece. (Evidence, pp. 22, 33, 36, 37).

Upon a piece of cotton cloth of the average value of 6*s.* 6*d.* the cost of bleaching and finishing would be 9*d.*

Supposing an increase of price even to the large amount of 10 per cent., which would be a most important addition for the bleacher, to be required in order to enable him to remunerate himself for his increased outlay, 10 per cent. upon 9*d.* would be one penny, and would raise the total cost of the bleached and finished article from 7*s.* 3*d.* (6*s.* 6*d.* + 9*d.*=7*s.* 3*d.*) to 7*s.* 4*d.* (6*s.* 6*d.* + 10*d.* = 7*s.* 4*d.*) (Evidence, § 340.)

But this increase would amount to only a fraction above one per cent. upon the selling price of the piece of cloth. In the case of some inferior qualities in large demand (as stated in the instance given at § 325 of the Evidence) a rise of even 20 per cent. upon the bleaching would amount to an increase of only one per cent. upon the selling price of the piece. In the case of pieces of the higher value, from 12*s.* to 15*s.*, an increase of 10 per cent. upon the cost of bleaching (one penny and one farthing upon 1*s.* 1*d.*) would amount to much less than one per cent.,—to about three fourths per cent.

And on referring to one of the well-known trade circulars of Messrs. Du Fay & Co. (See Appendix D.), it will be seen that from month to month (and occasionally, I am informed, from week to week) the selling price of the different kinds and qualities of cotton cloth varies considerably more than one per cent.; the variations often amounting within those periods to three, four, five, and six per cent.; and, if intervals of five or six, or from six to twelve months be compared, to eight and ten per cent. An instance of the latter will be found in the price of a certain description of cloth falling from 10*s.* in August last to 9*s.* in January last, or 10 per cent.; the stages of decline in the intervening months being respectively two-and-half per cent., five per cent., two-and-half, seven-and-half, and eight-and-half.

The evidence of those gentlemen already quoted is quite clear as to the fact that an increase of even 10 per cent. upon the cost of bleaching, or one per cent. upon the selling price of the goods, could have no perceptible effect upon the great branch of manufacture concerned.

If the bleachers fail to establish such increase, or having temporarily obtained it consent to forego it, it will be a proof that the competition among themselves has induced them to rely upon other means for a due remuneration upon their skill and capital.

The point which next arises for consideration is, if the Legislature should see reasons for limiting the hours of labour for females and boys in the bleaching and finishing works, to what extent would it be desirable to carry that limitation.

The Chairman of the Bleachers' Association, Mr. Ainsworth, although admitting that the hours of work have been at times too long for females and boys, will probably protest against legislative interference, but in the event of some interference being determined upon, will maintain his opinion as expressed in his evidence (p. 13) that females and boys under eighteen ought, in the bleaching, and finishing, and dyeing works, to be allowed to work from 6 a.m. to 10 p.m.

Mr. Hardcastle may, under a similar protest against legislation being necessary, be expected to renew his suggestion (Evidence, p. 20, § 177) "that he should "be glad indeed to see that no children under eleven should be employed at all in "the trades of bleaching, dyeing, and finishing, and that no females under eighteen "should be employed otherwise than in the day, namely between half-past 5 "in the morning and half-past 8 at night, or should work more than 60 hours in "any one week within those daily hours;" the Legislature having, Mr. Hardcastle believes, in the Acts for regulating labour, established the hours from half-past 5 in the morning to half-past 8 at night as constituting day-time. *

Mr. Morris, manager of a portion of Mr. Ainsworth's works, was of opinion (Evidence p. 16) that, if the latitude suggested by Mr. Ainsworth were allowed (i. e., of working females and boys from 6 to 10, or 96 hours per week), a further restriction might with propriety be added, namely, that they should not be allowed to work more than 14 hours a-day for five days, and 10 hours on Saturday, making altogether 80 hours per week.

It will be observed that Mr. Hardcastle would object to any limitation being placed on the hours of work for boys; the only regulation which he would think necessary in their case being, that they should not be allowed to work in those employments until the age of 11. Neither would Mr. Hardcastle assent to any limitation of hours for adult females.

Various other limitations both as to age and length of time were submitted to me for consideration by other gentlemen, or suggested by me for their opinions, the whole of which I have endeavoured to weigh maturely, with the full sense of the difficulty of arriving at a sound conclusion where so many interests are involved, and where many points require attention connected with the requirements of great varieties of processes and employments.

Suggestions for the relief of females and boys from presumed excessive labour proceeding from gentlemen in the position of Mr. Ainsworth and Mr. Hardcastle, which would nevertheless (in the first case) leave females and boys exposed to the liability of working 16 hours a day, exclusive of meal-times, for any number of days consecutively, or (in the second case) leave boys above 11 and adult females entirely unprotected, or (in the case of Mr. Morris's suggestion) allow of females and boys making 80 hours per week, may all at first sight appear to arise from no very great sense of the claims of the working classes upon the consideration of their employers. I am fully convinced that those suggestions proceed from no such feeling, but solely from a conviction upon their minds that, from the irregularity of the employment, and the alleged frequent opportunities of rest in addition to the usual meal-times, the young of neither sex require any greater degree of protection, either on the ground of health or morals, or of their means and opportunities of mental improvement.

Mr. Hardcastle refers very strongly to the fact that neither females nor boys work at present such long hours for many days or weeks together as was the case some years ago; and that a gradual and sensible amelioration in that particular was in progress, and that consequently there was no need of legislative interference. Mr. Hardcastle also drew my attention very pointedly to one of his own works, at which, in consequence of the state of trade for some months past, the people had been very far from being employed even as many as 12 hours a-day.

Whatever may have been the case in former years, the evidence shows that at present, in very many works, the females and boys are liable to be called upon to work 14, 15, or 16 hours a day for many months together, and that the intervals of rest are not sufficient to prevent their suffering from them; many being seriously affected in their health; many more complaining of the

* 8 & 9 Vict. c. 29. § 2. (Calico Print-Works Act.) Night defined to be from 10 p.m. to 6 a.m.

physical suffering occasioned by the long hours; others of being restricted in time and opportunities for mental improvement; all expressing a cordial wish that their hours should be placed under the same regulation as the factories, even although they might thereby earn less wages.

The unanimous desire of those among the workmen who have taken part in or supported the effort that is being made to induce the Legislature to apply the principles of the Factory Acts to the bleaching and finishing and dye-works, and the equally unanimous wish expressed to me by every young person of either sex whom I examined, or whose opinion or wishes I asked, did not prevent me from feeling that it was incumbent upon me to consider most carefully whether any other arrangement than that embodied in the Factory Acts was more suitable to the circumstances, and called for by both the great interests concerned,—those of the work-people and their employers.

The precedent of the Print-Works Act immediately suggests itself for consideration. The limitation under that Act applies only to children between 8 and 13, and females, and (by § 22.) permits them to work from 6 in the morning till 10 at night;* and the grounds on which such limitation was determined upon appear to have been, that the labour of children in that branch of business was not continuous, and that they had frequent intervals of rest during the day, while waiting until the different processes to which they attended required their active exertions. Such I have observed to be the fact in print-works.†

But these grounds are only partially applicable to the bleaching and finishing and dye-works. In these the kind of work is, as a rule, more laborious for the young than that of the print-works; the goods to be operated upon come in in larger quantities, and there is a continual liability to the recurrence of those pressures upon the bleacher which oblige him to "push" his work-people to get through a large extra portion of work in a short time. The larger the "connexion" of the bleacher, the more successful his business, the better the state of trade—the greater and more frequent are those periods of pressure. It happens, therefore, that in very many of the bleach-works the hours of labour will be with very little interruption (for 3, 6, 9, or 12 months together,) 14, 15, and 16 hours a day, and sometimes longer. Allowing every latitude for the argument that the females and boys have by accident, or take by arrangement with each other (for they all work by the piece), or are permitted by the managers, occasional periods of rest; I apprehend that the evidence I have collected is sufficient to justify the conclusion that to sanction the hours from 6 to 10, as those within which females and boys may be allowed to work in these branches of business, would be to afford to them no practical relief.

I apprehend also that the suggestion of Mr. Morris that the hours should be limited to 80 a week, within the hours of 6 a.m. and 10 p.m., is on the same grounds open to the same objection.

Mr. Hardcastle's suggestion that no boy under 11 should be employed in the bleaching and finishing and dye-works, is in accordance with an opinion expressed on behalf of the men (Evid. p. 3, § 22), and looking at the laborious nature of a large portion of the work, appears to me desirable. It would also, I believe, be generally acceptable throughout the trade. The same gentleman's suggestion with regard to not permitting females under 18 to work more than 60 hours a week, or except between half-past 5 in the morning and half-past 8 at night, is, in intention, both liberal and humane: and as it proceeds from a gentleman whose interests are so large in the trade, and who has been intimately conversant with every department of it for so many years, none but very strong and cogent reasons would be sufficient to overcome the very natural inclination to rest satisfied with and to acquiesce in such an opinion.

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* By section 21. boys between 13 and 16 must be certified by a surgeon to be of ordinary strength, and not incapacitated from working longer hours.

† In the course of the discussion upon the second reading of that Bill in the House of Commons, April 2, 1845, Mr. Milner Gibson stated that, "a man might be in a print-work for many hours, but it did not follow that during all that time he was employed in a manner injurious to health." Mr. Cowper stated, in reference to the definition of the term "work," that "it meant being "employed on the premises; for it was quite sufficient that the children were kept on the premises "during their working hours, without being allowed time to receive instruction, to constitute the "definition. Nothing was more important than to secure for the operative classes a proper amount "of leisure, in order that there might be time for improving their moral condition by a sufficient "education."—*Hansard.*

Mr. Hardcastle argues that the nature of the work in bleaching and finishing and dyeing works is such that boys above the age of 11 may be permitted, without injury to themselves, physical or mental, to work as long as the men in those employments are now called upon to do, that is, for 14, 15, and 16 hours a day, often for many weeks or months continuously; sometimes for more hours per day; sometimes, though rarely, for nearly 24 hours together; for it has been already shown that, although in some works these long hours may be varied every week for some time by short hours, and that at some periods of the year the short hours may be the rule at most works, yet it is equally shown by the evidence that the continuance of those long hours at very many works for many months together is very common, and that both boys and females assert and complain that they suffer, physically and mentally, from the effects. The truth of those assertions is also supported by the testimony of the medical men and clergymen whose petitions to Parliament have been above referred to. I apprehend, therefore, that it will not be deemed consistent with a due regard to the facts, or to the considerations to which they give rise, to separate the case of boys between 11 and 18 from that of girls between those ages, in regard to their claim upon the Legislature for protection.

Mr. Hardcastle would further exempt all females above that age from such protection, on the ground that the labour is not too severe for them, and that they are able to protect themselves.

There is undoubtedly a certain proportion of women employed in those works in simply working with the needle, either in marking or in stitching the pieces of cloth together with a needle or with a sewing machine, and a few others in work which from its lightness may be long continued without oppressive fatigue; other portions of the work may also be carried on by women of strong frames and constitutions for 14, 15, or 16 hours a day for some days consecutively without material inconvenience. But a large proportion of the work for which female labour is employed at those works (the finishing and making up) is very frequently both heavy in itself, and requires to be gone through with rapidity and without cessation for many hours together; and with all the greater rapidity, and the fewer chances of occasional extra minutes of rest, in proportion as the business of the employer is considerable, and the management exact and careful. For it is obvious that, the more regular and well arranged the progress of the work, the less frequently will the engine and machinery be required to be kept going, or the gas burning, for a number of hands short of the full complement.

I found, with scarcely an exception, that the females above 18 had precisely the same wish with regard to the shortening the number of hours as the younger ones. Many of them were young women just above that age, and between that and 30. If they are unmarried, it would be no more than consistent with fairness to give them the same protection from the temptation to excessive labour, for the sake of the preservation of their health and opportunities for improvement, which would be extended to those of their sex below 18. If they are married, their domestic duties can be very little attended to while they are away from their homes for 14, 15, or 16 hours a day, and the probability would be the less of their children having the benefit of any proper degree of instruction or training.

Supposing Mr. Hardcastle's suggestion to be capable of being, by the above arguments, legitimately extended so as to include boys between 11 and 18 and all females, the next question is, whether the limitation from half-past 5 a.m. to half-past 8 p.m., which that gentleman also suggested, is one which should be determined upon, coupled with the other portion of Mr. Hardcastle's suggestions, namely, that females under 18 (to which I have endeavoured to show that it would be right to add boys under 18, and to include all females,) should not be permitted to work more than 60 working hours per week within those daily hours; the proposition would, as regards the total amount of work within the week, be in accordance with the provisions of the Factory Act, and with the desire of the work people in the bleach-works, &c., as expressed in the evidence. But on mentioning this proposition to various persons in the trade, among whom I may name Mr. Ainsworth in particular, I did not find that it was approved of. However suitable to the mode of work and the course of business at some works, it did not appear to be thought generally

applicable or desirable. It would also open the door to evasions. The witness, John Waring (§ 435), made the following comment upon it:

"If Mr. Hardcastle's plan, or anything like it, were to be adopted, of allowing work to be done by females and boys between half-past 5 and half-past 8, but only 60 hours a week, the females and boys might have done their 60 hours in less than five days. That would be no benefit to the masters, because their machinery would be standing, and the drugs losing their strength, the rest of the time."

I have endeavoured to look at this question with the most sincere desire to give full weight to the difficulties which press upon the minds of the most conscientious masters. Those most disposed to adopt some plan which would relieve the females and boys in their employ from their present liability to exhausting labour, expressed their inability to see their way to any plan which would not be attended with considerable inconvenience to them. I therefore gave much consideration to, and took pains to elicit opinions upon, the point, whether the masters had a fair claim, considering the nature of their business, to be allowed to employ the labour of females and boys for longer hours than in the factories; whether the restriction in regard to boys might not, without injury to them, be allowed to cease at 14 or 16 instead of 18.

On maturely weighing the opinions I received from both sides, and referring to the whole tenor of the evidence, especially that of the great majority of the large mercantile firms above adverted to, I have been brought to the conclusion that the difficulties and inconveniences which the masters contemplate are much greater in appearance than reality. If they should continue subject to the same obligations as at present, to execute large orders for the merchants in the same space of time (which the great majority of those merchants say need not be the case if a law passed affording them an answer to such requests), they would, in the opinion of those merchants to whom they desired me to appeal, be justified in incurring an outlay for additional machinery, by being able to obtain a corresponding addition to their price for bleaching. But whether they increased their productive powers or not, a reduction by law of the working hours would be attended with increased activity and regularity during those hours. If the law allowed females and boys in those works to work from 6 a.m. to 8 p.m., with an interval of two hours for meals, there cannot be a doubt that arrangements would be made for exacting punctuality; that the present very common habit of beginning half an hour after the hour specified, and of taking an extra 10 minutes or more at each meal time, would be abandoned, and that in busy times (which, at many works, are shown to continue often for many months together) many females and boys would be exposed to hard and continuous work for 12 working hours a day. It cannot be doubted that 12 hours a day of such work as the largest proportion of females and boys in those works are called upon to perform for many months continuously, would be an undue demand upon their strength, especially to the young among them of both sexes; and I do not think that boys of 14 or 16 could fairly be placed in the same category as men in those departments of labour, at those works where the assistance of boys is required, and where they work against machinery, and have to keep up with adult labour.

The same argument would hold good, *à fortiori*, were the permitted hours to be from 6 to 7; for in that case, not only would there be a tendency to a greater acceleration of labour, but the half-hour of rest at tea-time could scarcely be exacted, or if it were the master would scarcely think the additional half-hour beyond 6 o'clock worth having.

It may be concluded, therefore, that in the absence of any undoubted necessity for the continuance of the present habit of those long hours which have been shown to prevail, and considering that sufficient grounds have been shown for the conclusion that shorter hours may be adopted without danger to the great interests involved, and further, that it would not be expedient to adopt the hours from 6 to 10, or from half-past 5 to half-past 8, or from 6 to 8, or from 6 to 7; the alternative remains of following the precedent of the Factory Act, and requiring the limitation to be between 6 and 6, with a certain variation to be hereafter adverted to.

In justification of this proposition there are some remarkable and most satisfactory precedents; not, indeed, in the precise neighbourhood of Bolton and Bury, where the great mass of the bleaching and finishing works of Lancashire are situated, otherwise they would, doubtless, have been brought to my notice by the

gentlemen who furnished me with information relative to the works in that district, to whom I have above referred; but in the immediate neighbourhood of Manchester, and principally in Salford. I did not become acquainted with these latter works until I had seen most of the principal works in the neighbourhood of Bolton.

The bleaching and finishing and dyeing works of Messrs. Dewhurst and Co., Salford (Evid. p. 41), are among the largest in the trade; employing about 250 men, boys and females. In addition to preparing and dyeing fustians, Messrs. Dewhurst and Co. bleach, dye, and finish all kinds of cotton goods for the Manchester merchants. The principal managing partner, Mr. Sager, with great frankness, stated to me that, although they were subject to the same kind of occasional pressure to execute shipping orders for the Manchester merchants, as the bleachers of Bolton and that neighbourhood, their regular hours of work were, and had been since 1847, from 6 to 6, and that they very seldom made any overtime, and never allowed their people to go on later than half-past 8. The days on which they worked overtime did not amount to much more than two months in the course of the year, and those not continuous. The works of this firm are well known to have been among the most successful in the trade. Mr. Sager stated that he adopted this plan of regular hours at the time that the Factory Act passed, and had continued it ever since; that he considered it in all respects far the most profitable and satisfactory, both for the masters and men; and that he had no desire to exceed those hours, even to the limited amount and on the comparatively few occasions which he did, from time to time, at present; but if an Act were to pass placing the females and boys of his establishment under similar limitations to those of the factories, he should find little difficulty in conforming to it.

Mr. Sager made no objection to communicating his opinions to me very freely upon the subject, but preferred that any detailed statement should be taken from his manager, Mr. Bell, who would speak more minutely to the facts. I accordingly beg to refer to Mr. Bell's evidence (p. 41), which fully bears out the foregoing.

In the same neighbourhood of Salford and Manchester are the works of the dyers and finishers of fustian and velveteen goods. I was furnished with a list of 18 of these. Three had recently suspended work. I visited eight of the remaining 15, and found, as I had been informed, that their system as to hours was uniform throughout that branch of business, namely, that their regular hours were from 6 to 6, with 1½ hour for meals, and a half holiday on Saturday, as in the factories. These works employ about 3,600 people, of whom about one-third are females and boys; nearly as large a number as that given in the list for the neighbourhood of Bolton, (Evidence, p. 19) which contains very few of the firms near Manchester. They are subject to the same occasional pressure, to execute shipping orders for the merchants, as the bleachers of Bolton, &c.; and they occasionally, but seldom, work overhours, and scarcely ever beyond half-past 8.

I beg to refer to the evidence of some of the principal of those masters, Mr. Schofield (Evidence, p. 53), Mr. Worrall (Evidence, p. 40), Mr. J. Lancaster (Evidence, p. 53), and Mr. Vaughan (Evidence, p. 58). They express, what I was assured was nearly the unanimous opinion of the trade in that neighbourhood, that the example of the Factory Act had induced them to try the same regulations as to hours; that they found no difficulty after a little time in making their arrangements for that purpose; that they found the shorter hours more profitable and advantageous for both masters and men; that they had no desire to work overtime, as they were sometimes still called upon to do; and that, if the law were to interpose to prevent it as regards females and boys, they should have little or no difficulty in conforming to it.

The case of the dyers of Turkey-red will be considered by itself. All other dyers of cotton goods come within the same category as the bleachers, the dyeing processes, where in use, making a part of or being attached to the bleaching portion of the establishment. The evidence is clear to the fact that there is no difficulty in the way of arrangements which would enable the females and boys belonging to the dyeing department to cease work at a particular hour, without the slightest injury to any one of the processes; inasmuch as any occasional need that may arise for any process to be continued to completion after a certain hour, might be met by applying to it the labour of any young

men upon the establishment above the age of 18, who could be employed for the short time such a process might require. The dyers also, as a rule, are not so liable to be called upon to work very long hours. Being generally in the same establishment with the bleachers and finishers, they cannot be separated from them in any enactment; but the difficulties are the less in adjusting their work to a regulated number of hours.

SUGGESTIONS.

I.—I THINK it will be seen from the foregoing that the hours of labour established by the Factory Acts, namely from 6 to 6, with intervals of an hour and a half for meals, and a half holiday on Saturday, may with propriety and safety be applied by law to the bleaching and finishing and dyeing works for cotton fabrics, with the variation now to be mentioned.

It was insisted on by many of the owners and managers of the cotton bleach-works and dye-works in England and Scotland, and very forcibly also by most of the owners and managers of linen bleach-works in Ireland and Scotland (see Report, pp. xxix. xxxii.), that as the bleaching process is so much dependent on chemical agents, and as the quantities of cloth to be dealt with in any one process vary with the fineness of the material, it is very difficult and often impossible to say beforehand that they can stop the work at a given moment, either at the meal hours or at the final hour of leaving off work in the evening; and consequently they as often stop a few minutes before as a few minutes after the regular hour.

It may happen that this cause may operate one day to oblige them to go beyond the two meal hours and the final hour of stopping by a few minutes, perhaps 10 minutes, each. On another day, with a different quantity or quality of cloth to deal with, there may be a diminution of time worked to the same amount.

Many works, also, especially in Scotland and Ireland, are so arranged that it would be impossible for them, without an entire change of system, to diminish materially the number of working hours on Saturdays, their usual working hours being 10 per day, that is from 6 a.m. to 6 p.m., with two hours for meals, except on Saturdays, when the work-people voluntarily take only half an hour for each meal time, in order to leave work at 5. In all such cases I found that the recognized hours of meals were two a day, and consequently that the actual number of hours worked were the same as the factory hours, namely 60 hours per week.

Considering the great number of females (and some boys) working in the hot stoves in Scotland and Ireland, and a few in England, in very high temperatures (90° to 100° and 120°, and in some cases to 130°) during the whole working hours, and considering also the fatiguing nature of much of the work of other descriptions in which both females and boys are engaged, in the English bleach-works especially, it would appear to be undesirable to make the meal hours of the factories, namely, half an hour for breakfast and an hour for dinner, in all cases obligatory. It is obvious that two full hours of rest are desirable in all cases where the work is hard, and the temperature such as above described.

II.—It appears, therefore, that it may with propriety be proposed that in any bleaching, or finishing, or dyeing works in which the time assigned for meals shall be two full hours, except on Saturdays when they may be not less than an hour and a half, the employment of females and boys shall be lawful from 6 a.m. to half-past 6 p.m.; and also that no person shall be subject to the penalties of the proposed Act for employing the labour of females and boys before 6 o'clock in the morning on Saturdays, provided always that the hours of actual work on Saturdays, added to the hours worked on the previous five days, do not exceed 60 for the whole week.

This would enable the owners and managers of these works to employ females and boys either for ten hours and a half on five days of the week and seven hours and a half on Saturdays, or ten hours a day for every working day in the week, as may best suit their convenience; and by beginning earlier than 6 on Saturdays, as is the present practice with many, to finish work on that day at an earlier hour in the afternoon.

It remains to consider how far the other provisions of the Factory Act are applicable to the bleaching and finishing and dyeing works.

III.—Instead of admitting children to work at the early age of eight, as at the factories, and limiting them to work only "half-time" up to the age of 13, during which interval they are obliged to attend school, the suggestion that no child should be admitted to work at the bleaching and finishing and dyeing works under the age of 11 would, I believe, be unobjected to.

IV.—Previously to a child arriving at the age of 11, there have been opportunities of school instruction which will in all probability, considering the growing disposition among the working classes towards education, and the greatly increased number and efficiency of schools, have been to a certain extent taken advantage of.

To introduce a system of compulsory attendance for children of 11 years of age, which, according to the analogy of the Factory Act would only be of two years duration, would probably be acknowledged to be inexpedient.

V.—Neither would the machinery of surgeon's certificates be indispensable towards checking the possible disposition of parents to send their children to work a little before they complete 11 years, as is the case when the limit is the tender age of eight.

I believe that a sufficient check would be found in requiring the parent or guardian of a child first admitted to any of those works to produce the usual certificate of baptism, or, in the case of a valid reason being shown for being unable to do so, to deliver to the employer a declaration in writing stating the true age of the child, coupled with condign punishment in case of such declaration being false. This certificate or declaration would be kept by the employer, ready to be produced to any inspector, until the child had passed the age of 18.

VI.—The question of the necessity for giving power to an inspector to order the fencing off of dangerous machinery, engaged much of my attention on going through the various works with the proprietors or some one in authority.

The evidence shows that accidents arising from the machinery being unfenced are not of frequent occurrence. A great deal of it is not of a nature that can be considered to be dangerous in the sense of entangling any portion of the person in it by the position in which it stands or by its construction. Wherever it is so, I observed that the master had, in almost every instance, already fenced it off; and in the few that appeared to be dangerous to any one inadvertently coming too near it, on my calling attention to it, immediate directions were given to cause it to be properly guarded. The accidents which usually happen are, I believe, such as from the nature of the machinery must be expected to occur from time to time from mere carelessness; as, for instance, if a man or boy whose business it is to attend upon the rollers, and to place the cloth within their touch, puts a finger too near them and has it crushed. I found very little desire existing on the part of the working people that the Legislature should interfere in this matter. I believe that the reasonable suggestions of an inspector, in the course of his duties in reference to the age of the children and the hours of work, would be attended to, on his calling the attention of the master to any dangerous portion of the machinery which, from the force of habit, had not been considered such by himself or his workpeople.

VII.—There are one or two other points in which it appears to me that good reasons exist for deviation from the precedent of the Factory Acts. By those acts no permission is given to make up for time lost by breakages of machinery. Where the machinery, such as that of the factories, is of such delicate and accurate construction, so light in its kind, and consequently so little liable to serious derangement, and moreover, where the derangement of one part does not necessarily or probably extend its consequences beyond the stoppage of a few looms or a few hands out of the whole number employed, the reasons may be valid for not allowing time lost by breakage of machinery to be made up. But the case of the bleaching and finishing and dyeing works is different. The machinery is cumbersome and heavy, and much more liable to derangement by sudden jerks, which break or displace small portions of it. A stoppage from such a cause in one department of the work will cause a derangement of work in all the processes subsequent to the one in which the breakage occurred, and occasionally in previous ones also. Those stoppages seldom amount to many hours at a time, but unless they could be made up within a short interval, much inconvenience and disappointment might be occasioned both to the owner of the

works and to the merchant, by the former not being able to fulfil a promise of sending home goods by a certain day. I would therefore respectfully submit that any time so lost might be recovered as follows: If the stoppage amounted to not exceeding four hours, it might be recovered by working not exceeding four hours after the usual hour of ceasing work for females and boys in the evening of the day in which the stoppage occurred; and every hour exceeding four might be recovered at the rate of two hours per day until it was so recovered. Notice of the time lost, and of its being in course of being recovered, should be forthwith sent by post to the inspector. Time lost by a deficient supply of water, or by flood or fouling of water,* should be allowed to be recovered in the same manner.

VIII.—Another peculiarity applicable principally to the dyeing and finishing, or calendering and finishing (which comes within the more general designation of finishing), and partially to the bleaching and finishing works, especially those at and near Manchester, wherever finishing machinery is used, requires to be considered.

The circumstances of the trade very often make it more expedient to begin the work of the day at 7 o'clock than at an earlier hour, more particularly in the winter months, in the numerous smaller finishing works at and near Manchester, and also in some bleach-works both in England, Scotland, and Ireland. The Factory Act allows the owner of a factory, by giving previous notice to the inspector, to fix the hours of work for females and boys from 7 to 7 instead of from 6 to 6 (with a half holiday on Saturday), between the 30th October and the 1st April. I think sufficient ground is shown (Evidence, pp. 57, 58) for considering whether, in the cases in question, the permission, if granted at all, should not be extended to the whole year. But I fear that it would be impossible to guard such permission from abuse. The practice would in such a case very probably be adopted throughout the trade; some of the men beginning work at 6, and some of the females and boys at 7. The undesirable habit would be thus established for the latter, of working from 7 to 7 the year through, instead of from 6 to 6 or half-past 6 as proposed. They would thus be further excluded from the means of profitably employing their evenings, which they now desire to be able to avail themselves of, for their mental improvement, and also from due recreation at seasonable hours after the day's labour. Should the proposition (II.) be adopted, of allowing the hours to be from 6 a.m. to half-past 6 p.m. with two hours for meals, it might be added that where the females or boys in any work commenced work at 7 a.m., the time to be allowed for breakfast should be half an hour only (between 7 and 9 o'clock) and the dinner time one hour, and the hour of leaving off work half-past 6. This would give 10 working hours, and reduce the extra-time contended for to one half hour only, the loss of which would probably be little felt at any works.

IX.—The last question to be considered is,—should this proposed measure, supposing it to be adopted by the Legislature, take effect within six months from the passing of the Act, or should a longer time be granted, to enable the various interests concerned to prepare to adjust themselves to it.

It is argued on behalf of the men (Evidence, § 439.) that so many of the principal bleach-works have already been extended, in anticipation of some such measure (the commencement of these extensions dating from a year and a half or two years ago, when the operative short-time committee began their endeavours to procure this proposed enactment), that there is no valid reason why such a measure should not take effect within a short time after its passing. I believe, also, it may be confidently stated that the classes to be affected by it,—the females and boys,—are very anxious that it should become law with as little delay as possible; and that, in England at least, they are quite ready to make any sacrifice of earnings that may be required on their part,† should such become necessary.

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* This is more in reference to the linen bleach-works.—*Vide* Report on Scotland.

† The argument used by some of the masters that they would substitute the labour of adult males for that of females and boys if the proposed measure were to pass, will, I apprehend, appear to be sufficiently answered by the facts adduced by themselves to the effect that they would lose, by so doing, the means of training up skilled labour; also by the fact that the labour of adult males, being so much more costly than that of females and boys, would, if substituted by them for the latter, place them under a considerable disadvantage as compared with any of their competitors in the trade who should adopt means to continue females and boys in their employment.

Considering that many, and especially the smaller capitalists in the trade, have not yet commenced such extension; and that time also must be required to bring the measure to the notice of the merchants in the foreign markets, in order that they may have the opportunity of regulating the time of sending their orders by the altered circumstances here; it will be felt that some extension is desirable in the interest of all parties.

Mr. Scott suggests that the descent from the present unlimited hours for females and boys should be made by three gradations; that after the first year from the Act passing, the hours should be from 6 to 8; after the second year, from 6 to 7; and after the third year, from 6 to 6 (Evidence § 333).

Referring to the preparations already made by many of the principal employers concerned both in England, Scotland, and Ireland, it will probably be deemed sufficient to grant an interval of nine months between the passing of the Act and its coming into operation; and, considering the great number of females in Scotland and Ireland working in hot stoves at a temperature of 90 to 120 degrees, and the excessive labour to which many of the females and boys in the English bleach-works are now liable, it would be felt by them to be a great boon if the Act could come into operation previously to the commencement of the warm weather of next summer.

The other localities in England where bleaching and dyeing are carried on, afford so few special features, that I have deemed it more convenient to place my report upon them after the two following, on Scotland and Ireland, the recommendations suggested in which have been embodied in the foregoing. A further suggestion in reference to the linen bleach-works is given in the last paragraph of the Report for the East of Scotland (p. xxxiv.)

SCOTLAND.

BLEACH-WORKS OF THE WEST OF SCOTLAND. (Cotton.)

These are principally for bleaching the various kinds of cotton and woollen goods manufactured in Glasgow and Paisley; also for bleaching fine worked muslin goods sent from Ireland. Among them are a few works for dyeing yarn and cloth.

In a statement published by the Committee of the Operative Bleachers' Short-time Association, at the latter end of 1853, the number of these bleach and dye works in the West of Scotland is given as "about fifty."

I visited 38, including all the principal ones. The proprietors of five others had, together with several firms included in the above 38, signified their concurrence with the objects of the association.

Regarding five of the remaining seven, I received information which showed that they presented no features likely to alter the general conclusions derivable from those visited. The two or three others, if they still exist, are very small, employing only a few hands each.

Leaving out of view for the present the six establishments for dyeing the "Turkey-red" colour, which will be the subject of separate consideration, I beg attention to the Tables given at pages 18, 19, and 21, containing certain statistics regarding the 29 other works visited.

It will be seen that the total number of persons employed in the bleach-works and the few dye-works now under consideration, is about 5,200, of whom nearly 4,000 are females. The number of boys employed is comparatively very small; and as few appeared to be under 15 or 16, I did not always ask for their exact number.

The employment of probably three-fourths of the females, and of some few of the boys, is in the drying-stoves.

The drying-stoves are, with few exceptions, of two kinds. One in which the goods are stretched upon frames in long rooms, heated to a temperature of from 90 to 130 degrees of Fahrenheit. In these, by far the greater number of the females are employed, and they remain in them during the entire working hours.

The nature of their work requires them to be moving about with little intermission. The usual numbers in each room are from 15 or 20 to about 30 or 40. They are necessarily extremely lightly clad; nevertheless, the temperature and the movements required cause, except where the heat is very dry, profuse perpiration, and the aspect of the majority betokens the exhausting effect of such employment.

In the drying-rooms for the finest descriptions of muslin, employing also a large number of females, the temperature varies from about 70° in the coolest part of the room to about 100° or 105° near the stove, and towards the inner portion of the room. In these rooms the females remain for about ten minutes at a time, spreading and waving about the pieces in the hot air until they are partially dry; they then repeat the process in an adjoining cool room for five or ten minutes, when they return to the hot room. They are thus alternately for those periods in the hot and the cool rooms. They are clad nearly as lightly as those in the stoves first mentioned. The frequent change into the cool room gives this species of work a great advantage over the former.

The age of these females appeared to be generally between 15 and 25; but in several works I observed in the stove-rooms many girls and a few boys from about 11 or 12 to 15.

The rest of the females, a comparatively small number, are employed in the bleaching department and a few operations connected with it; and a small number also in the "making up" rooms; but the latter work is of a very light kind, and not attended with any of the peculiarities adverted to in reference to the bleach-works in England.

Previously to the autumn of 1853, the recognized hours of work at the largest proportion of these bleach-works were from 67 to upwards of 70 hours per week; in addition to which, both at those works, and at others where the ordinary hours of work were more moderate, overtime was not uncommon.

Considering the great heat in which so large a number of females, and a certain proportion of the men worked for so many hours in the week, the question of the practicability of shortening the hours by mutual arrangement between the employers and their workpeople had been frequently under discussion; and in May, 1853, a formal proposition was made by a committee of the men, embodying the most friendly and creditable sentiments of the workpeople towards their employers.

The following is a copy of the memorial then presented to each employer, dated May 1853:

"MEMORIAL TO THE BLEACHING AND SCOURING MASTERS OF "THE WEST OF SCOTLAND.

"GENTLEMEN, — We, the operative bleachers and scourers connected with your establishments, being convinced that the present system of protracted hours of labour is fraught with many prejudicial effects alike to employer and employed, desire through this medium respectfully to call your attention to the fact, and solicit an alteration therein. We heartily deprecate the spirit of hostility and animosity that at times manifests itself in such movements—believing that the interest and happiness of master and servant demand that a good feeling should subsist between them both. We desire then to agitate the present question in this spirit, and under the control of this impression; trusting that our present appeal will show, that while we are anxious to enjoy what we consider will be a great boon to the operative, we have not forgotten that the master has interests involved in the question as well as the servant, and that we are not so selfish as to ask that which will entail any real sacrifice on your part. In soliciting an abridgment of the hours of labour, we feel ourselves bound to state, in all honesty, the grounds on which we rest this appeal. We therefore solicit your attention to the following:—

"1. We are firmly convinced that the present system tends materially to impair our physical energies, and destroy our health. Man being an agent of limited power, must, in the nature of things, sink under any form of labour, when that labour is either disproportionate to the muscular strength possessed, or when it is spread over such a space of time as leaves him destitute of suitable or sufficient repose.

"2. It leaves us no time for the cultivation of our intellectual faculties. We believe ourselves possessed of these. We feel that we are responsible to God for our cultivation of them. In order to be properly evolved and strengthened, we must have time to devote to it. Under the present system this is wholly impossible. Other trades are enjoying

the advantage of Mechanics' Institutes, &c., &c., and thereby improving their minds; and if no change takes place in our trade, the consequence will be, that your Memorialists will feel themselves degraded in the eyes of their fellow workmen.

"3. It wholly unfits us for discharging the duties, or enjoying the privileges, of the Christian Sabbath. Man needs periodic seasons of rest. If that be infringed on during the six working days, it cannot surprise us if nature demands it back on the Sabbath. We are therefore compelled to acknowledge, that the present system either forces us to remain at home, or renders us dull, listless, and haggard in the house of God.

"Further, your Memorialists are of opinion that such a change will entail no sacrifice on your part. The following are the grounds upon which we rest this, which we respectfully solicit your consideration to :—

"1. Man being an agent of limited power, it is perfectly evident, if he is overwrought to-day, either in regard to the degree or duration of labour imposed upon him, that it will be at the expense of to-morrow's strength. This is a fact that, whilst it can scarcely have escaped your attention as employers, can be easily substantiated, both by the evidence of the workmen themselves, and by comparing the actual amount of labour done. Taking this for granted, it follows, that such a system persisted in, is actually far less remunerative to the master than the other course would be.

"2. This holds true in regard to time. If *ten* hours a day be the average at which man can work cheerfully and well, it is clear that *twelve* hours will make him dull and fatigued; and therefore, although he continue two hours a day more, he will not and cannot perform two hours' additional work. If the spur be applied to him, and he master it one day, the next will pay it, and he will be far more than two hours short of his average labour. We feel persuaded there is not a man in your employment who will not substantiate this.

"3. In much of our labour a degree of care, vigilance, and reasoning is required. All such mental exercise demands a healthy and vigorous state of the body. Now, the heated atmosphere many of us breathe has an undoubted tendency to produce languor and wearisomeness, which, in the nature of things, must operate, and that powerfully, against the bestowing of that care so requisite in our trade. A careful examination of work done in the morning, and similar work performed after a day of thirteen hours, will, we are confident, shew that the work done at the thirteenth hour is either unequal in amount or quality to that done at the first.

"4. Other trades have the hours of labour reduced, and we believe the result generally is such as to corroborate our statement, that short hours produce more work, and that of a better quality, than under the old system.

"5. We would suggest to you, that your complying with our request would show that you were interested in the condition of your servants, and consequently bind them the more to your services, and stimulate them more and more to promote your interest.

"We have thus honestly and undisguisedly stated both our request, and our reasons for preferring it. We trust you will give it your unbiassed consideration. Let there be no animosity between us. We have spoken openly, but we hope respectfully. We await then your candid and honest reply. Trusting that the reply will be favourable,

"We remain, gentlemen, your obedient servants,

"THE BLEACHERS IN YOUR EMPLOY."

Two conferences then followed, on the 17th of June and the 1st July 1853, and were attended by 13 employers and 26 delegates on behalf of the operatives; and at the second meeting, "eight employers expressed themselves favourable to an arrangement of 66 hours per week, and five to 60 hours."

Subsequently, in the month of September 1853, another memorial, of which the following is a copy, was circulated by the operatives, and was signed by the employers, in the form and with the remarks appended.

"TO THE BLEACHING, SCOURING, AND FINISHING MASTERS OF SCOTLAND.

"GENTLEMEN—We once more embrace the opportunity of addressing you on the question of short time. We feel that it is not necessary for us to enter into a forma statement of the reasons which can be urged with the greatest propriety and justice in favour of a limitation of the hours of labour, inasmuch as they have been repeated so often and so forcibly, that they must be well known to and admitted by all. At the close of the adjourned Conference held in the ante-room of the Trades' Hall, Glassford-street, Glasgow, on the first of July, it was remarked by an employer that "the shortening of the hours of labour is merely a question of time." To the truth of that remark we submit no exception can be taken, and think that the time has now arrived. On consulting documents relating to the commercial condition of the nation, we find that it has, within a very short period, attained to an unwonted degree of prosperity, which there is

every reason to believe will be lasting. We wish to share in that prosperity, to enjoy a portion of the advantages arising from an increase in trade; and in pursuance of that object, have earnestly and respectfully to request that our hours of labour be reduced to 60 per week.

"Trusting that this our reasonable request will meet with your ready approbation, and receive your steady support,— We are, Gentlemen, your obedient servants,

"THE OPERATIVE BLEACHERS, SCOURERS, AND FINISHERS OF SCOTLAND."

"We agree to this Memorial only on the understanding that the provisions therein contained shall be unanimously concurred in by the other bleaching masters. ALEX. COCHRAN, Jun. & Co."—Kirkton Bleach-works.

"I agree to this on condition that the majority agree to it. WM. FULTON."—Glenfield.

"I agree to 60 hours per week. THOMAS CARLILE."—Houstonfield.

"We approve of 60 hours per week. WM. ADAM & SON."—Milnbank.

In favour of 60 hours per week.

WM. WALLACE & SON, Burnbank.
CLARKE & Co, 420 Gallowgate.
J. & H. M'CONNELL, Kirklee.
WILSON & NAPIER, Bellshaugh Dyeworks.
WM. RODGER & SONS, Carmyle.
G. HUTTON & Co., Queen-street Works.
JAMES M'KINLAY & SONS, Glenmill.
WM. CUNNINGHAM & SONS, Campsie.

"We agree, if acted upon by all the bleaching masters. J. J. and B. FLEMING."—Newlandsfield.

"We agree on the same conditions. JAMES YOUNG & SON."—Auldhousefield, 16th September 1853.

JAMES M'CONNELL & Co., Hazledeanfield.

JOHN WALLACE & Co., Netherplace.

JOHN BARR & Co., Chapelfield.

WM. D. HILL & SON.—"Only if made binding on the whole trade; the present hours are too long, those sought too short. WM. HILL."

ANDREW CHALMERS & SON, Watersidefield.

"We agree if acted upon by all the bleachers and scourers. C. & P. STIRRAT." Nethercraigs.

"We agree if generally acted upon. M. ROBERTSON & Co,"—Foxbar and Lonsdale.

"On condition that the bleachers unanimously concur in the arrangement, BROWN & POLSON."—Thrushcraig.

"I agree to 60 hours, provided it is generally adopted by the trade. JOHN WALKER, Jun."—Castlebank, Partick.

It thus appears that in the course of September 1853, 23 of the proprietors of the bleach-works and dye-works (exclusive of Turkey-red) in the West of Scotland expressed their readiness to conform to 60 hours per week, some unconditionally, others provided all in the same trade would agree to the same limitation.

It was shortly afterwards ascertained that this general agreement was impracticable; but on the 17th October following the foundation was laid of another "understanding," which was then, or soon afterwards, entered into by from 15 to 20 of the employers, including all the principal ones, to fix the regular hours of work at 66 per week.

It does not appear to have been very distinctly understood whether this arrangement was to include a stipulation against working any overtime. At all events it is still objected on the part of the operatives that overtime has in many works not been entirely discontinued, and that in some works this arrangement has been in other respects broken through. It will seen from the Table (p. xxvi.), that the answers given to my inquiry upon that subject at each of the works named, agree very often with that assertion of the work-people, and show that the hours, although reduced from what they formerly were, are still, in many cases, longer than, considering the very high temperatures in which so many of the females work, can be deemed desirable.

I asked for the opinion of every proprietor of those works whom I could meet with, and, in the proprietor's absence, of his manager; and it will, I think, from the general nature of the evidence, be observed, that considering the amount of pecuniary interests involved in any question of a reduction of the hours of labour, the concurrence in favour of it to the extent asked for by the

workpeople is remarkable; and proceeding, as it does, from the humane and public-spirited motive of relieving those in their employ from a portion of exhausting labour, even at the pecuniary risk of the master, it places in a very advantageous light the general feeling of the masters in this branch of business in that portion of the United Kingdom.

The following Table, compiled from the evidence, shows how greatly those masters who are disposed to agree to the factory hours, preponderate, both in number and in the number of persons in their employ, over those who raised any serious objections:

Do not object to the Factory Hours, provided that all Bleach and Dye-works are subjected to them by Act of Parliament.	Number of hands employed when busy.	Do not object to the Factory Hours, provided that all Bleach and Dye-works are subjected to them by Act of Parliament.	Number of hands employed when busy.
1. Mr. W. Adams & Son - -	200	16. Mr. W. Cuningham - -	45
2. Mr. W. Wallace - - -	100	17. Mr. M'Kinlay - - - -	140
3. Mr. M'Cole - - - -	34	18. Mr. Pender - - -	70
4. Mr. Walker - - - -	90	19. Mr. Clark - - - -	40
5. Mr. Wilson - - - -	55	20. Mr. M'Callum - - -	150
6. Mr. M'Connell - - -	30		
7. Messrs. J. Young & Sons* -	360	20 masters employing - -	3,284
8. Mr. Crum - - - -	400		
9. Mr. Wallace, Nether-place -	400		
10. Mr. J. Cochrane, junr. - -	250	21. -	Signed the Memorial in
11. Mr. J. Cuningham - - -	260	22. -	
12. Mr. Blackwood - - -	60	23. -	
13. Mr. Arthur - - - -	200	24. -	September 1853, for 60 hours.
14. Mr. R. Fulton - - -	70	25. -	
15. Messrs. A. Hamilton & Sons -	330		

* In the same line of business as Mr. Fleming (see next Table), and would find no difficulty, such as that mentioned by him.

Objectors.	Number of hands employed when busy.	Objectors.	Number of hands employed when busy.
Mr. Fleming would find a difficulty, as regards 35 females out of the total number of hands employed.	280	If factory laws were applied to his works, would put up extra machines, and dispense with some of his female labour.	
Mr. Alex. Cochran.—His principal objection to the factory hours is, that out of the 700 persons in his employ, he would be unable to employ 20 females at night-work, in a kind of work for which the labour of females alone is suitable.	700	Mr. Hutton, calenderer and finisher, Glasgow.—Works not always employed; their present number of hours 66.	44
		Mr. M'Lean, yarn-dyer, piece-work.—Would not care to come down to 57 hours, but 60 would be inconvenient from the nature of the work.	50
But Mr. Cochrane signed the Memorial of the operative bleachers praying for 60 hours per week, "on the understanding that the provisions therein contained shall be unanimously concurred in by the other bleach-masters."		Mr. Alex. Harvey, yarn dye-works.—Employs eight or nine boys and one female. If Act passed, should either get rid of machinery, or employ more boys to enable him to conform to the hours.	45
Mr. Mathew Robertson, Foxbar and Lonsdale.—"Heat of stove moderate, only from 75° to 90°, and females only in the hottest part for 10 minutes at a time; therefore shortening of the hours not required for these works."	450	Seven masters employing -	1,769
Mr. Buchanan, calenderer and finisher, Glasgow.—Heat of stove 80° to 90° and 100°.	200	Two small employers, Mr. Smith, of Glasgow, and Mr. J. Geddes, doubtful. Mr. Geddes stated—"If he were to be placed under the factory laws, the merchants would be obliged to give him more time if they wanted an order executed promptly."	
Works, when required, much overtime.			

Out of the seven coming within the latter description, it will be observed that the four last can hardly be considered as interposing serious objections, as they indicate the mode they would adopt towards relieving themselves from the anticipated difficulty. It will be seen, also, that the two first gentlemen on the list (employing, the one 280, the other, 700 persons) express their apprehension of finding themselves materially interfered with, the first in regard to 35, the second to only 10, persons out of the total number in their employ.

The hours of work on Saturdays in bleach-works and dye-works in Scotland require a different arrangement from those laid down by the Legislature for the factories. I have already adverted to this subject in the report on the English bleach-works, &c., but it is desirable to state it specifically, as I found it applicable to the works in Scotland.

In the factories there is no precise quantity of work which must be got through every day; they can, consequently, stop at any moment without any difficulty, or any derangement of the general progress of the manufacture.

Although the arrangements of many bleach-works and dye-works are such as to enable them to work a shorter day on Saturdays than on the other days of the week ($7\frac{1}{2}$ hours instead of $10\frac{1}{2}$), there are others, as those of the bleach-works for very fine goods, and some of the dye-works, for yarn-dyeing in particular, (see Evidence, §§ 666. 772.) where the machinery, the boilers, and the other accessories to the different processes have been so made and disposed as to enable the workpeople to perform the same quantity of work in a given time each day in the week; and it may occur in many such works, either that much cost would have to be incurred in their total re-arrangement, or considerable impediments be thrown in the way of the employer, or the risk of serious injury incurred, if he were to be limited to the factory hours, as regards his females and boys, on Saturdays. This question will be adverted to again in the portion of this Report relating to the bleaching of linen, to which the above remarks also apply.

Cotton Bleach Works and Dye Works in the West of Scotland.	Persons employed.				Usual Hours of Work.	Time allowed for Meals.	Hours of Work on Saturdays.	Total ordinary Hours of Work per Week.	Overtime.	Temperature of Stoves.
	Men.	Boys.	Females.	Total.						
					A.M. P.M.	HRS.	A.M. P.M.	HRS		DEG. FAHR.
1. Wm. Adam & Son, Milnbank, Glasgow.	40	10	150	*200	6 to 7	$1\frac{1}{2}$	6 to 3	66	Occasional.	90–100
2. Wm. Wallace & Son, Burnbank, Glasgow.	20	—	80	*100	6 to 7	$1\frac{1}{2}$	6 to 3	66	In summer often from 6 to 9; sometimes 6 to 12.	100–130
3. Mr. M'Cole, Kelvinhaugh, Glasgow.	7	—	27	34	"Eleven per day net."	1	6 to 3	$63\frac{1}{2}$	"Sometimes a good deal." From 6 a.m. to 12 p.m.	105 in winter, higher in summer.
4. Mr. J. Walker, Castlebank, Partick, Glasgow.	18	—	70	88	6 to 7	$1\frac{1}{2}$	6 to 3	66	Occasional, but paid double.	90 in winter, in summer higher.
5. Mr. Alex. Wilson, Bellshaugh, Glasgow.	5	—	50	55	Eleven hours net.	$1\frac{1}{2}$	6 to $2\frac{1}{2}$	$65\frac{1}{2}$	Occasional.	110
6. Messrs. J. & H. M'Connell, Kirklee, Glasgow.	15	—	15	30	6 to 7	$1\frac{1}{2}$	6 to 3	66	Occasional.	Dries by "extractors."
7. Messrs. Fleming, Newlandsfield, Pollockshaws, Glasgow.	30	2	250	282	6 to 7	$1\frac{1}{2}$	6 to 3	66	None. Some at night-work	90–110 90–120
8. Messrs. J. Young & Sons, Pollockshaws, Auldhousefield, Glasgow.	80	*10	*270	360	6 to 7	$1\frac{1}{2}$	6 to $3\frac{1}{4}$	66	Occasional, and night-work.	90–110 90–120
9. Messrs. Fr. Wm. Crum, Thornleybank, Pollockshaws, Glasgow.	50	—	*350	400	6 to 7 Fridays 6 to 8	$1\frac{1}{2}$	6 to 2	66	Seldom; usually from Dec. to Apr.	90–100
10. Mr. Wallace, Nether-place, Pollockshaws, Glasgow	40	—	*360	400	6 to 7	$1\frac{1}{2}$	6 to 3	66	Seldom.	100–105
Carried forward -	305	22	1622	1942						

* Approximative when most busy.

	Persons Employed.				Usual Hours of Work.	Time allowed for Meals.	Hours of Work on Saturdays.	Total ordinary Hours of Work per Week.	Overtime.	Temperature of Stoves.
	Men.	Boys.	Females.	Total.						
					A.M. P.M.	HRS.	A.M. P.M.	HRS.		DEG. FAHR.
Brought forward -	305	22	1622	1942						
11. Mr. J. Cochrane, Junr., & Co., Chapelfield, Barrhead, Paisley.	20	—	230	250	6 to 7	1½	6 to 3	66	Seldom.	90–120 100–130
12. Mr. James Cuningham, & Sons, West Arthurlie, Barrhead.	60	—	200	260	6 to 7	1½	6 to 3¼	66	None.	90–110
13. Mr. Blackwood, Arthurlie, Barrhead.	20	—	*40	60	6 to 6	1½	6 to 3	60	Seldom.	Thread bleacher.
14. Mr. Alex. Cochrane, junr., & Co., Kirktonfield, Neilston, Paisley.	100	—	600	700	6 to 7	1½	6 to 3	66	Rarely.	80–90 90–100
15. Messrs. M. Arthur & Son, Crofthead, Neilston.	20	—	180	200	6 to 7	1½	6 to 3	66	None.	90–100 110–105
16. Messrs. R. Fulton & Co., Glenfield, Paisley.	35	—	35	70	6 to 7	2	6 to 3	63	Seldom.	Shawl washers.
17. Messrs. A. Hamilton & Sons, Blackland-mill, Paisley.	30	12	300	340	6 to 7	1½	6 to 3¼	66	Never. But night-sets occasionally.	90–100 100–105
18. Messrs. Mathew Robertson & Co., Foxbarr and Lonsdale Bleach-works, Paisley.	30	30	390	450	6 to 7	1¾	6 to 3¼	64	Never.	80–90 90–100
19. Messrs. Geo. Buchanan & Sons, Candleriggs, Glasgow, calenderers and finishers.	110	30	60	200	6 to 7	2	6 to 2	62	Occasional night-sets.	80–90
20. Mr. Smith, calenderer and finisher, Glasgow.	40	2	10	50	6 to 7	2	6 to 2	62	Occasional; no night-sets.	
21. Mr. Hutton, bleacher and finisher, Tureen-street. Glasgow.	4	—	40	44	6 to 7	2	6 to 2 or 6 to 4	62 or 64	Frequent, when busy; and also night-sets.	100–110
22. Messrs. W. Cuningham & Sons, Campsie, Glasgow.	13	2	32	47	6 to 7	2	6 to 7	66	None.	80–110 100–115
23. Mr. M'Kinlay, Glenmill, Campsie.	26	2	114	142	6 to 7	1½	6 to 3	66	None.	82–85 Average.
24. Mr. M'Lean, Yarn Dyeing-works, Glasgow.	*30	—	*20	50	6 to 6	2	5 to 4	60	None.	None.
25. Mr. James Pender & Son, Cotton and Linen Bleach-works, Clober, Glasgow.	40	14	16	70	6 to 7	2	5 to 3	64	None with boys or females.	Moderate. Great heat not required.
26. Mr. Clark, Burnbrae, Millengavie Bleach-works, Glasgow.	4	1	36	77	6 to 7	2	6 to 4 (1 hour for breakfast.)	64	When busy much overtime. Sometimes from 1 a.m. to 9 p.m., and, at times, 30 hours at a stretch.	Very hot in summer.
27. Messrs. Alex. Harvey & Son, Govanhaugh Yarn Dyeing-works, Glasgow.	35	9	1	40	6 to 6	2	—	60	Very seldom.	Cool.
28. Mr. M'Callum, Yarn Dyeing-works, Govanhaugh, Glasgow.	110	24	10	150	6 to 6	2	6 to 6 or from 4 a.m. to 3	60	Seldom.	Cool.
29. Mr. Geddes, Govanbank, Yarn Dye-works, Glasgow.	*50	15	1	66	6 to 6	2	6 to 6	60	Seldom.	Cool.
30. 31. 32. Very small works, at which I did not receive any accurate statistics.										
33. to 38. Turkey-red Dye-works, for which see p. 67.										
Totals - -	1074	157	3937	5225						

* Approximative when most busy.

On referring to the above Table, it will be observed, that the hours of work on Saturdays are variously stated as from 6 to 2, 6 to 3, 6 to 3¼, 6 to 4, and 5 to 4; and that in some works two hours a day are allowed for meals, and in the rest an hour and a half.

It will be seen, in the evidence relating to the latter, that in most instances the hours nominally allowed for meals on the first five days of the week are two; but by mutual arrangement they are reduced to one and a half, in order to enable the work-people to leave off earlier on Saturdays. On that day they have at some works only half an hour (at breakfast), at others, two half hours, one for each meal; the total number of actual regular hours per week, exclusive of any over-time, do not, therefore, exceed those agreed upon.

I need not repeat in this place the mode suggested at p. 13 of the report on the English bleach-works, by which these hours may be adjusted, so as not to exceed 60 working hours per week.

I beg to direct attention to the instances of excessive overtime shown, in the evidence (§ 643), to have been of recent and long continued occurrence; and also to the cases of night-work for females (§§ 682. 710. 751. 783.), including young girls of 10, 11, and 12 years of age, who work occasionally 20 hours out of the 24 in a temperature of about 110°. Specific cases, such as the above, acknowledged by the owners or managers of the works in which they occurred, and the admissions of many others, as appears by the above Table, that overtime is occasionally resorted to, have disposed the minds of the employers generally to submit to a regulation of the hours for females and boys by Act of Parliament, and will probably, together with the facts upon the same subject in the portions of the Report relating to England, and to the linen bleach-works of Scotland and Ireland, be held fully to justify such interference on the part of the Legislature.

It will be also observed that very little weight is attached, in any part of the evidence relating to the bleach-works and dye-works of Scotland, to any supposed difficulty arising on the part of the merchants, or the necessity of executing or finishing orders suddenly for them.

This difficulty, if it existed in any force, was not held by the owners of bleach-works and dye-works in Scotland to prevent the mutual arrangement entered into by so many of the principal ones in 1853, to reduce their hours of work for the whole of the persons in their employ. Neither is it now referred to as likely to interpose any obstacle to the reduction of the hours of labour for females and boys in their works from their present usual number of 66 per week to 60.

On this subject Mr. James Cuningham observed (§ 701.), "Before we entered "into the arrangement of 1853, we used to be pushed by the merchant and "manufacturer, and obliged to work 16 hours a day continuously for a time, "and sometimes all night. The merchant and manufacturer have conformed "already to that alteration."

The present high price of starch and coal,—after wages, the two greatest elements of expense in their various processes,—are referred to as much more serious considerations than the loss of six hours a week of the labour of females and boys, or the possible loss arising from their not being able or desirous to reduce the wages in a corresponding ratio. (Evidence, s. 728.)

Two other employers gave me somewhat similar statements, and from the concurrence of these three the general effect of the present high prices of those articles may be estimated in comparison with a possible loss to the proprietor in having to pay the same wages for six hours less per week, even on the supposition that the loss extended over the whole amount of wages paid in his works. (Evidence, § 742.)

In none of the works did I observe any necessity for any compulsory interference for the purpose of fencing off machinery; and I beg to refer to the opinion expressed at p. xix. of this Report in reference to the same subject, namely, that the suggestion of an inspector would in all probability be sufficient to cause any particular portion of machinery to be fenced, which from constant familarity might have seemed to the owner or manager not to require it.

The suggestion also made at p. xix. relative to the propriety of the owners of the works which would come under this proposed Act having a certain power to make up for time lost by the breakage of machinery or by the want of water, is equally applicable to these works of the West of Scotland.

BLEACH-WORKS IN IRELAND (PRINCIPALLY FOR LINEN).

I VISITED in Ireland thirty-nine bleach-works. I could only hear of nine more, seven of which were very small ones; and the whole nine were described to me, by persons acquainted with them, as not differing in their general features from those I visited.

The works at which females are employed in any number are those in which either linen pocket-handkerchiefs (Irish cambric) or fine cotton goods (muslins) are bleached and finished. Of these there are thirteen, the whole of which I visited. They employ all but twenty of the eleven hundred females whom I found employed, according to the statements of the owners or managers, in the whole of the works visited. (Evidence p. 79.)

Their employment consists, with comparatively few exceptions, in attending to the frames on which the linen handkerchiefs or the fine muslin goods are stretched, in the process of drying in the stoves, and in pulling them out to their proper breadth. The temperature in these stoves varies from 85° Fahr. to 95°, but as a general rule, the temperature which it is desired to maintain as most suitable to the work is 90°.

The usual working hours for the females in these stoves is from 6 to 6, with two hours, and (in some establishments) two hours and twenty or thirty minutes, for meals and rest. In a few instances during the winter season the hours are from day-light to dark, and from 8 a.m. to 8 p.m.

At periods of slack trade, such as the present, these hours are not exceeded; but when trade is brisk, or a quantity of goods is required by a customer by a certain day, the hours are extended at nearly all these works, for one day or two days in a week, to 8, 9, or 10 at night, and occasionally later. At one work, Mr. Howey's, employing thirty-two females, the periods of overtime were, when trade was in a flourishing state, more frequent and longer, during three alternate months of the year. At another, Mr. Ball's, employing 100 females, the night work on such occasions continued during a fortnight or a month together up to 8 or 9 o'clock; and there is also a set which goes on through the night. At two other works small sets of females were sometimes employed all night; and at another (a new work) the whole (37) had once been employed all one day and night, and part of the next night.

The nature of the material manufactured does not admit of its being in demand in such large masses at a time as is the case with the cotton goods; consequently there is a proportionately less necessity for working overtime to supply such demands as arise. Also the daily intercourse by steam communication with the great shipping ports, and the greatly increased opportunities of shipment to the foreign markets, tend further to reduce that necessity.

Nevertheless, at periods of good trade the females at work in these hot stoves are in fact, as has been shown, exposed to the same liability to be called upon by their employers to work overtime, although not to the same extent as prevails at times in the cotton bleach-works in England, or in the cotton and linen bleach-works in Scotland.

Several of the largest employers stated that they did not like to call upon their hands to work overtime; that it was not profitable, often quite the contrary; and that they did so only to oblige a customer. They therefore expressed no reluctance to being prevented by Act of Parliament from exceeding their accustomed hours as regards the labour of females and boys. The appearance of the females working habitually in this heat (90°) seemed to me, as a general rule, perfectly to justify the expression of Mr. James Graham, manager of Mr. Ewart's works (§ 935), that "no girls are fit to work in this heat longer than the regular hours."

Almost the only gentleman who expressed any decided disinclination to a limitation of the kind by Act of Parliament was Mr. Richardson, of Lambeg; not, I feel assured, from any indifference to the well-being of his work-people, for no gentleman whom I met with in the course of this inquiry in Ireland has done so much to promote education and consult the general welfare of the people in his employ. It appeared to me that Mr. Richardson's disinclination towards any legislation upon this subject arose from a strong feeling that it was not required for the protection of the people at his own works; a feeling which I found to exist in a few other gentlemen whose works were carried on with a similar regard for the

comfort of their workpeople, where overtime was neither common nor ever carried to an injurious extent. In the case of Mr. Richardson's works, however, it will be seen by that gentleman's statement to me (§ 911.), that he had already made arrangements by which he would not henceforward have any occasion for employing any of his people overhours, and would consequently not be affected by any Act that may be passed upon this subject; and as regards the other employers above alluded to, the same remark is applicable, in so far that they stated, that without inconvenience to themselves they would be able to take measures which would prevent night-work or overtime for females or boys in future. (Evidence, §§ 944. 957.)

Mr. Richardson stated another reason against Parliamentary interference for preventing females and boys working overhours, namely, that as the process of bleaching was liable to long interruptions in winter, it was but reasonable that time then lost should be recovered when a favourable state of weather returned.

The fact having been by this inquiry clearly established, that the females in bleach-works in Ireland (in which are included the few dye-works) are, at periods of brisk trade, or in making up for time lost, liable to be called upon to work overhours, principally in stoves having a temperature generally of 90°, and as that liability will, in the natural course, be greater, and the period for which it will continue longer, in proportion to the prosperity of trade in these departments of labour; as many of the females so employed are children of from 11 or 12 to 15, and the great majority apparently between 15 and 20, or only a little beyond that age; and as there is no difference in principle, though there may be in degree, and therefore in the injurious consequences resulting from it, between such employment in Ireland and in England and Scotland, I apprehend that no ground can be shown for the exclusion of Ireland (as was urged when the Bill of last year was before the House of Commons) from any legislature that may be deemed advisable for England and Scotland.

A further reason remains to be stated against the exemption of Ireland,—namely, that several of the bleach-works in Ireland bleach and finish both cotton and linen, and are at least employing 100 females on cotton goods (muslins) exclusively. The owners of bleach-works, therefore, both in England and Scotland, would have reason to complain, if, while they were placed under restrictions as to the hours of labour for females and boys, their competitors in the same branches of business in Ireland were allowed to employ females and boys even all night whenever they wished to do so.

I found in the course of the inquiry that an impression existed in the minds of several of the owners of bleach-works in Ireland, that there had been an intention on the part of the Government to prevent the "beetling" engines, which form an important part of a bleaching establishment, from being continued at work all night, as the exigencies of the manufacture generally required them to do.

These beetling engines are superintended by both men and boys, the latter not numerous.

I had no difficulty in removing that impression, by taking upon myself to assert that there was not the remotest probability of the Government making the slightest attempt to interfere with adult male labour.

It will be seen from the Table I have compiled of the persons employed in bleach-works in Ireland (p. 79), that the number of boys under 18 which were stated to me to be employed in the 39 works visited (only nine that I could hear of being unvisited, and seven of those being very small ones) amounted to only 271. The great majority of those were employed at the beetling engines, and, as a general rule, take their turn at the night set; they have frequently intervals of rest, as is described in §§ 1,027. and 1070. and the work is altogether easy and free from everything injurious to health. At some few works the ages of the youngest were from 12 to 13; but generally speaking they were represented to be from 14 to 18, and nearer the latter age than the former. At two works they are obliged to attend the engines every night, besides during the day, but make arrangements for large intervals of rest; at another they attend them from 6 a.m. to 11 p.m. with the usual intervals; at another, every alternate week they take the night set; at another, they take it every alternate month. (Evidence, §§ 980. 984. 988. 999.)

So few boys under 18 are, in Ireland, employed at this work (though their number would doubtless be increased on a revival of trade, both in the present works, and in several that for the time have been discontinued), that if the

question of preventing the continuance of night-work in their case stood alone, it would very probably be considered unnecessary to interfere with it; but it would appear that much inconvenience would arise from any attempt at exemption in this case, inasmuch as, though not numerous in Ireland, many boys under age are employed in similar work in England and Scotland, who would necessarily be included in any legislation in respect to bleach-works; and in Ireland itself, were any attempt made to exempt them, the anomaly would exist of some boys (those in the stoves and the finishing-rooms) in the same works being prevented from working overhours, and others (those at the beetling engines) being allowed to work all night.

On the other hand, no practical inconvenience of any moment will be found, according to the evidence given by some of the principal gentlemen engaged in this branch of business (§§ 1004. 1008.), from preventing boys under 18 being employed overhours at the beetling engines as well as in the other departments of bleaching and finishing. Stout and strong boys are required to do this work; so many of them already approach the age of 18, that it would require no very difficult arrangements to place at the night-work those only who exceed that age. Already, also, a contrivance has been voluntarily introduced by many employers, by which they can dispense with the attendance of boys at these machines altogether. The only inducement for continuing them at all at such work is the opportunity it affords of training up a succession of men skilled in the management of the beetling process. It is probable that a certain proportion would in any case be retained with that view, and employed during the day. Mr. John Kirk, one of the largest employers, stated (p. 76) that, if an Act passed excluding the boys at these machines from night-work, he should substitute a simple application of machinery for half the number he now employed (40), and retain the other half.

Mr. Hunter's remark (p. 73), that it is "hard upon the capitalist, while exposed "(as he is) to the competition of foreign countries, to keep his capital idle thirteen "and a half hours out of the 24," was made in reference to his suggestions that relays of females might be permitted for night-work, and that the proposed Act should not be made to apply to females above 30 years of age;—suggestions which will probably be pressed upon the Legislature from other quarters, but to which the objections, at stated at p. xv. of this Report, are sufficiently obvious.

The regular hours of work at nearly all these bleach-works and dye-works being from 6 to 6, with two hours or upwards for meals and rest, they will experience no difficulty in conforming to the factory hours, if required. At the same time the permission should be allowed to them already adverted to in my Report for England, namely, to continue their present practice, including the same hours for Saturdays (from 6 to 6 with two hours for meals), if those hours would better suit the arrangements of any work, provided the hours of actual work do not exceed 10 per day, and 60 hours per week. Considering the great and exhausting heat in the stoves where nearly the whole of those females work, they probably derive more benefit from a full hour's rest in a cooler temperature daily at breakfast time, than they would by limiting that period to half an hour, for the sake of leaving off at 2 o'clock on Saturdays. By some extra exertion, or by considerate arrangements of their employers, they appear generally, as it is, to be able to leave off on Saturdays at 4, or in some cases at 3 o'clock.

The remarks relative to the fencing of machinery made in my Report for England and Scotland equally apply to Ireland,—namely, that I saw no necessity in any of these bleach-works or dye-works for any power being granted by the Legislature to cause dangerous portions of machinery to be fenced. Accidents were said to be exceedingly rare, and I observed in a great number of instances that portions of machinery which were thought dangerous were already securely fenced off. The few accidents which were mentioned to me had arisen from the gross carelessness of those who unfortunately suffered by them, and could not have been prevented by any fencing of machinery at all practicable.

In the "making-up" rooms, called in Ireland "lapping" rooms, where attached to the bleach or dye-works, very few females or boys are employed. The "making-up" is in many instances performed at a separate establishment in the neighbouring town. Where it makes a part of the premises on which steam-power is employed, it will come under the regulations as to the labour of females and boys of the proposed Bill.

EAST OF SCOTLAND.

EAST OF SCOTLAND LINEN CLOTH AND LINEN YARN BLEACH-WORKS.

The bleaching of linen cloth and linen yarn in Scotland is principally carried on near the towns of Perth, Dundee, Arbroath, Montrose, Aberdeen, Dunfermline, Mark-Inch, Leslie, and Kirkcaldy. There are a few works, chiefly small ones, in other localities in the east of Scotland.

I visited 21 of these bleach-works, which included nearly all the principal ones. The leading features of all, both the greater and smaller, were so similar, that there appeared to be no necessity for visiting the few omitted.

The occupation is a very healthy one, much of it consisting of out-door work, in spreading or gathering up the cloth or yarn upon the grass, or shaking the yarn stretched on poles, or in putting the material through the various washing boiling and steeping processes in well covered and airy buildings.

The number of females employed in the 21 works which I visited was about 618, and the number of boys about 223. (Evidence, p. 90.) To these are to be added those that may be employed in the works which I omitted, which do not, I believe, exceed a dozen in number, and those principally small ones.

At one work (Messrs. Patton and Brown's, near Perth), the account given me by Mr. Daniel Forbes, one of the managers, was, that their regular hours of work for five of their females in the bleaching department were from 2 a.m. to 8 at night, with two hours allowed for meals.

At the beetling machines, they had ten females, who went on from 6 a.m. to 10 p.m. one day, and the next day from 6 a.m. to 6 a.m. on the day following.

Mr. Forbes very naturally added that "they had all laboured greatly to get "the hours shortened. They are generally so tired that if they sit down they "are asleep in a minute."

At a neighbouring work (Mr. Turnbull's, Huntingtower), that gentleman stated, that in the beetling process he had "15 females and 15 men," and that the hours of work when they were busy were thus arranged: "They begin at "6 a.m., and from 12 o'clock, after an hour for breakfast, they can go on for three "days with three quarters of an hour's work every three hours. But the general "hours of work are from 6 to 9 or to half-past 10 at night, with those intervals "of three hours after every three quarters of an hour. They go home at half-past "10 or 11 p.m., and come again at 6 a.m." In the drying and "blueing" department, Mr. Turnbull stated that he had twenty females, and in the "making up" room seven. "Though their regular hours are from 6 to 6, the latter are called upon "when we are busy, as we were nearly all last year," to work from "6 a.m. to 8 p.m. (including six boys), and the former sometimes from 4 a.m. to "8 p.m."

Mr. Turnbull, who has bestowed much care and expense upon the improvement and comfort of his workpeople, very properly added,

"Although I might be put to considerable inconvenience in these works by night-work being stopped, I would willingly submit to it, and put on men to work instead, in order to put an end to the immorality that must occur in the country by the present arrangement. The chief effect would be to reduce the wages of the women. There may be some difficulty in conforming to the Factory hours, but I believe it will be all got over."

At the work of Mr. Spottiswode, also near Perth, where about 25 females are employed, although the usual hours in summer are from 6 to 6, there is occasional overtime, "often in summer to 8 or 9 o'clock; and the beetlers, who go on all night, are in sets of two men and four women."

At the works of Messrs. Marshall, near Perth, in busy times, from six to twelve females in the boiling-house, and six or seven in the dyeing-house, begin work at 2 o'clock a.m. and may return home for an hour or two from 4 to 6, at which latter hour their regular day's work commences, and they go on till 6 p.m., with two hours for meals. Three others in the "making up" room generally go on to 7 p.m. In the beetling process twelve females are employed from 9 p.m. to about 10 preparing the work for the night. They then go home and return at 6 a.m.

Mr. Wm. Marshall, in his evidence (p. 83), explains the nature of the work connected with the beetling machines. It is not of a continuous kind, or laborious while it lasts. The cloth, according to its various qualities, is subject to a shorter or a longer process of beating by heavy beaters worked by machinery.

It requires to be turned or changed on the beams sometimes once in three hours, sometimes at a longer interval. The females or boys may be occupied for half an hour or three quarters of an hour at the work of turning or changing the cloth, after which they have the intervals of two and a half, three, or four hours unoccupied, as above described. They can, therefore, take some sleep during those intervals, both at night and during the day. But those intervals, when they have nothing to do, form the objection to the employment of females at the work at night, to which Mr. Turnbull adverts in the extract from his evidence above quoted.

At five other works, also, I found that there were a few females employed in this way at night, either habitually or occasionally. Mr. Sandiman, at whose works seven females work with men at the beetling process at night, deprecates legislative interference, which he considers unnecessary, on the ground of the experience of works like his own, where such precautions as the nature of the case admits of appear to be taken, and where much care is shown generally for the well-being of the persons in his employ. (p. 83.)

The general hours of work for the rest of the females and boys in the above and the other works visited were described as from 6 to 6 in summer, including two hours for meals, and from 7 to 6 in winter, including one hour for dinner. In a few instances those hours were slightly varied for local convenience.

The occasions in which these hours would be exceeded for females and boys vary with the demands of the trade. At periods of brisk trade the hours are exceeded, more or less, at most of the above works, according to the particular demands at the moment. In some, the females and boys would be called upon to continue at work to 8, 9, or 10 o'clock, and occasionally later, for a night or two at a time, sometimes for more than that. At others the occasions would be less frequent, and the duration of work less. It was the unanimous opinion of those owners and managers with whom I came into communication, that overtime was neither desirable for the workpeople, nor profitable to their employers. They stated that their sole reasons for ever working overtime were two, 1st, to oblige a customer who might require an order to be executed promptly; 2d, to place in a state of safety any portion of their goods that in the course of any of the processes might be liable to injury from delay.

The first reason was strongly insisted on by only two or three of the owners or managers of the works which I visited; and it was insisted on most strongly by gentlemen at whose works (such as Mr. Webster's and Mr. Duncan's) few of the evils of overwork and none of those arising from the night-work of females are found, which afford the principal justifications for legislative interference. This portion of the question has been so fully gone into in the course of the evidence and report for England, that it may suffice in this place to repeat the conclusion arrived at, namely, that the difficulties were probably more in appearance than reality; and that, in the words of Mr. Turnbull and Mr. Robinson, in the first part of the evidence relating to the linen bleach-works of Scotland, "a way would be found for getting over it."

It will be observed, by the list appended (p. 90), that nearly all the linen and yarn bleach-works profess to work only from 6 to 6, and the evidence shows that some adhere more or less strictly to those hours as far as females and boys are concerned. They have, however, in some instances been only adopted within the last year, "at the request of the workpeople," the hours previously having been from 6 to 7. This was the case at the works of Messrs. Webster, Salmon, and Co. at Arbroath, and of Messrs. Richards and Co. near Montrose, at which latter the manager, Mr. Petrie, stated that the hours had been from 6 to 7 for the previous thirty years. At the works of the same company near Aberdeen the recognised hours of work are still from 6 to 7; and although in the present state of trade they seldom continue at work as long as 7, they would do so if trade revived, and work overtime also if required, the time after 7 o'clock being paid for as overtime.

The above circumstances show that it is desirable to fix and make uniform by legislation the arrangements which have been already voluntarily adopted in so many instances in the trade. Deviations from it would be thus prevented, which, when resorted to, place those employers who adhere to the general understanding under considerable disadvantage.

At the same time I think it will be seen from the evidence that ample reasons are given for the adoption of an arrangement, with regard to the precise limits

of the working hours and meal times, different from that laid down for the regulation of the hours of labour of females and boys in factories.

In the processes of bleaching linen and linen yarn, more especially in the case of the latter, it is clearly shown by the most unexceptionable testimony (Evidence, pp. 84, 85, and 86.) that, in consequence of the varying qualities, and therefore the varying quantities in a given space of the different kinds of goods, it is impossible to say within a few minutes how long it may take to bring a particular batch through certain processes, and place them in a safe state, and in due course of preparation for the next.

At all these linen and yarn bleach-works, therefore, the workpeople are accustomed either to leave off a few minutes before the recognised meal-time or hour of stopping in the evening, or to go on a few minutes beyond them, according to the exigencies of the moment.

These deviations appear seldom to amount to more than ten minutes either way; and an account is kept of them, with more or less accuracy, at different works, so as to satisfy the workpeople that the hours of actual work do not exceed 60 in the whole week.

On Saturdays the arrangements vary at different works, according to their situation and other circumstances; but the general result is, that either by beginning a little earlier than 6, or by curtailing their meal-times, or by both means united, they leave off earlier on that day; at some works at 2, at others at 3, 4, or 5.

As a general rule, also, it may be stated that the mechanical arrangements of the works and the exigencies of the various processes require that very nearly if not quite the same amount of material must be got through on Saturdays as on any other day.

This being so, it may be convenient to repeat in this place the conclusions on this portion of the subject, which I have stated more fully in the Report for England (p. xviii.), namely, that it will probably satisfy the object of protecting the females and boys engaged at these employments from overhours of work, if it should be enacted that, if at any work to which the proposed Act will apply, the meal-times shall on every working day (except Saturday) be two hours per day, it shall be lawful to employ females and boys from the hour of 6 a.m. to the hour of half-past 6 p.m.; and that on Saturdays it shall be lawful to employ females and boys before the hour of 6 in the morning, provided the total hours of work on that day do not exceed 10, and provided also the total hours of work during the whole week do not exceed 60.

SUGGESTION.

X. To the suggestions embodied in the portion of the Report relating to England (pp. xviii. to xx.) there is another provision which the circumstances of the linen and linen yarn bleach-works imperatively require. In consequence of so large a portion of these processes going on in the open air, and their goods being exposed for long periods upon the grass, it will be necessary, as explained in the evidence of Dr. Boase, M.D. (p. 84) and several other gentlemen (p. 85, 86), to enable them, on emergencies arising from the state of the weather, to employ the labour of females and boys after the hours above described. It appears from the concurrent testimony of those gentlemen that the occasion will not be likely to arise more than a dozen times in the year; that a record of the necessity when it arises could be easily kept in a book at the office, and be shown to an inspector when required; and that from the nature of the case no abuse would be likely to arise therefrom.

TURKEY-RED DYE-WORKS.

The business of dyeing the colour called Turkey-red is carried on by six firms in the West of Scotland, and at one work, that of Mr. Steiner, at Church, near Accrington in Lancashire.

The processes in Scotland are carried on, like those of the bleaching of linen, to a great extent in the open air, and are therefore dependent upon the state of the weather.

It takes, according to the evidence of Mr. Graham (p. 67), 21 processes to complete the dyeing of Turkey-red, and each process occupies a day.

All the works accordingly are so "laid out" as to permit of a certain quantity being put through one of these processes every day. The whole 21 processes go on simultaneously, each with a similar quantity of cloth. The hours of work on Saturday must therefore be as long as those of any other day.

At all the Turkey-red works in Scotland the usual hours of work are from 6 to 6, with 2 hours for meals. The nature of the manufacture does not admit of any overtime beyond what may be occasionally necessary in consequence of the state of the weather, and the overtime is then necessarily limited by the duration of the light favourable for processes incidental to the dyeing, during which the cloth is exposed upon the grass.

The evidence (pp. 68 to 72) shows that, in the Turkey-red dyeing-works in Scotland, the females and boys need no legislative protection from excess of labour. There appeared, however, to be a feeling among some of the gentlemen owning and managing these works, that provided they were not prevented from employing their females and boys for 10 hours on Saturdays, and provided also they were enabled in cases of emergency arising from weather to begin a little before or leave off a little after 6, (as already suggested, p. 29.) they would not object to be all placed on the footing of 10 hours per day, with 2 hours for meal-times. One firm, Messrs. Fleming and Watson (p. 71), stated that "they would rather have the Bill than not," §§ 870. 873.; under the impression that some of their competitors exceeded the hours (10 a day) that are usual in the trade.

The excess adverted to takes place principally, I believe, in the Turkey-red dye-works of Mr. Steiner, above mentioned, whose processes differ materially from those of the Scotch works, as they are carried on entirely under cover, according to processes perfected and invented by himself.

Mr. Steiner, it appears by the Evidence p. 72, carries on the business of a printer of cloth as well as that of a dyer by commission and for sale.

In the first capacity he comes under the provisions of the Act 8 & 9 Vict. c. 29, to regulate the labour of children, young persons, and females in Print Works; and by this Act he is enabled to employ, when required, about 110 boys and 5 girls for the hours permitted by that Act, namely, between 6 a.m. and 10 p.m.

Of the 110 boys, those in the oiling department (60) go home at or before 6 every day (§§ 875. 876.)

In the "mordant room" Mr. Steiner employs 17 boys below 18, six of whom are between 8 and 13. Their hours appear generally to be from about half-past 4 or 5 a.m. to half-past 8 or 9 p.m., with 2 hours for meals and rest.

In the dyeing department there are 60 boys under 18, who begin at 6, sometimes at 5. They generally leave off at 8, but sometimes go on from 6 a.m. to 10 p.m., and sometimes till 11 p.m. (§ 887.) During those hours, however, 12 of the youngest boys are engaged in watching the dye-vessels, and have three intervals of rest of an hour and a half, when they have nothing to do; some younger boys are only employed four hours and a half in the day.

In the "finishing room" there are four women and three girls, and "the general hours are from half past 6 a.m. to about half past 7 at night." (§ 890.)

The period of about twelve months, during which the hours have been as above stated, was preceded by about an equal period during which the work was "slack," and at that time it did not amount to "more than 5 or 6 hours a day sometimes." (§ 884.)

Mr. Steiner deprecates being placed under the restrictions of the proposed Act, on the grounds that the present latitude is essential to the prosperity of his business, and that he is already under the Print Works Act as far as relates to the dyeing which is "incidental to printing."

Should it be thought expedient not to exempt the dyers of Turkey-red from the operation of the proposed Act on any other ground, I apprehend that the latter one urged by Mr. Steiner,—namely, that he is already under the operation of the Print Works Act,—would not be held to be tenable, inasmuch as it is essential to the general purposes of the proposed Act that it should include all works that either "bleach or dye, by commission or for sale," in the same establishment in which they bleach or dye for the purposes of their business as printers.

I add a copy of the statement presented by Mr. Steiner during the last session to many members of Parliament, in which his claims for the exemption of the Turkey-red dye-works are set forth, with especial reference to his own case.

YORKSHIRE DYE WORKS.

WOOL, WOOLLEN STUFFS, SILK, AND MIXED GOODS.

The materials dyed in Yorkshire are wool, woollen cloth, stuffs of wool and cotton mixed, worsted, woollen and cotton yarn, and cotton warps, and silk. The number of boys and females employed is not great, and the employment is a healthy one; neither are the hours of work habitually beyond the usual hours of from 6 to 6, with generally two hours for meals; and during periods of slack trade, such as the present, many firms have not always full employment for their people. On the other hand, when trade is good, there is the same custom of employing both females and boys overhours, and as long as the demand of the moment requires, as has been described in the cases of Lancashire, Cheshire, Scotland, and Ireland.

Mr. Wilson Sutcliffe, manager of the works of Messrs. Ripley, Bowling, Bradford, employing about 400 people, of whom about 100 are boys and about 12 females, stated that at those periods of extra demand their hours were from 5 or 6 a.m. to 8 or 9 p.m., and sometimes later, for six or eight weeks together.

Mr. G. Armitage, of Bradford dye-works, employing about 350 people, of whom 40 are boys, and 8 females, stated that their usual hours, when busy, were from 6 a.m. to 10 p.m., and that the busy time generally extended from April to August. The first-named of these gentlemen contemplated very little difficulty in confining the boys and females to the hours between 6 and 6, and the last-named stated, for the reason he assigned (p. 92.), that he should prefer it. Mr. Richard Watson, manager of Mr. Samuel Smith's dye-works, Bradford, also one of the largest employers in the trade (employing, when busy, about 200 people, of whom 50 are boys), did not anticipate much difficulty, and inclined to prefer that the hours should be limited (p. 92.) Mr. Joseph Moxon Kirk, of Halifax, who expressed a great desire to forward whatever might contribute to the well-being of the people in his employ (upwards of 200, of whom about 20 are boys and about 10 females), saw no difficulty in conforming to the hours which the Legislature might deem desirable for females and boys; and in this opinion Mr. Kirk was joined by the other employers in the dyeing business in Halifax, Messrs. Oats and Ingham, Messrs. Holmes, and Mr. Jonathan Smith. Mr. Reffitt, employing, when busy, about 150 people, of whom about 20 are boys and about six females, stated that although their regular hours of work were from 6 to 6, yet, when very busy, they were sometimes from 6 a.m. to 12 p.m.; and that two years ago, in 1853, when trade was brisk, they went on for nearly a year from 6 a.m. till 9 or 10 o'clock at night, endeavouring, however, to send the boys home at an earlier hour, and place men in their stead. It is obvious that boys could not stand continuous work to that extent for any length of time; but it is also plain from the above, that without an authoritative limitation upon such long hours, there will always be a tendency in the employers to keep boys and females at work to the extent described, whenever the temptation arises for so doing. The statement of Mr. John Crowther, manager of Mr. W. Shaw's cotton yarn bleaching and dyeing works, Huddersfield (Evidence, p. 95.), appears to embody a very just opinion upon this subject:—

"If the over-time is required, it ought to be done by men. It is quite long enough for boys to work from 6 to 6, with two hours off for meals, although the work is light."

The few employers in these branches of business in Yorkshire, who expressed to me any great reluctance that the hours for females and boys should be interfered with, laid much stress on the lightness of the work, and the frequency of the intervals during which they did not make full time. These were, however, for the most part the owners of the smaller works, employ very few boys, from four to eight on an average. It may be hoped, therefore, that their difficulty may not be so great in conforming to any general measure that may be deemed expedient. Some, indeed, of the smaller employers expressed no objection to such a measure.

Any disposition that might exist to substitute men for boys permanently, should any measure be passed of the kind contemplated, would be materially checked by the natural desire to train up a succession of young men accustomed to the particular business, well known to the employers, and presumably both better servants and more reluctant to quit the particular work.

The question as between the manufacturer and the merchant has been so fully adverted to in the former portion of this report, that it does not seem necessary further to advert to it, except to refer to the opinion expressed on the subject by Mr. Richard Watson, manager of Mr. Samuel Smith's dye-works, Bradford (Evidence, p. 92), to the effect that,—

"If we are not allowed to employ females and boys beyond 10 hours a day, the merchants will have to wait a little longer for their goods. To this we shall not object, because we frequently have to wait overhours in slack times. [Not employed in the earlier part of the day, but kept at work late by receiving a quantity of goods late in the day.] The merchants would have to send their goods earlier, or wait a little longer."

The same opinion is expressed by Mr. T. Hodgson (Evidence, p. 93), in the employ of Mr. Joseph Houldsworth, Wakefield, and practically conversant, from the nature of his duties, with this branch of the business.

WESTERN COUNTIES.

I HAD reason to believe that no females or boys were employed in the dyeing establishments for wool or woollen cloth in the western counties of England, or in any bleaching work in which machinery was used. As a contrary impression prevailed in the minds of some persons in Lancashire, it was necessary that I should ascertain the fact by personal inquiry. The evidence given at p. 95. shows that none are employed.

NOTTINGHAMSHIRE, &c.

HOSIERY, LACE, AND SILK TRADES.

FOR the same reason it was necessary to make a similar inquiry personally at Nottingham, which was attended with the same result, namely, that in the hosiery, lace, and silk trades, with exceptions so trifling as not to require notice, females and boys are not employed to work against machinery in the processes of bleaching, finishing, or dyeing; the nature of these processes not admitting or not requiring it. (Evidence, p. 96. Evidence relating to Tiverton, p. 97.) The same remark applies to Norwich (Evidence, p. 98) and Spitalfields (p. 99), and to the other localities referred to at §§ 583 and 1267, and suggest the propriety of omitting these trades from the provisions of the proposed Bill.

I believe that the foregoing Report embraces all the localities in the United Kingdom where the employments in question are carried on, with so few and unimportant exceptions that they could not in the least degree affect the general conclusions arrived at.

I have therefore only to reiterate the opinion expressed in the last paragraph but one of the first portion of this Report (p. xxi.), that it would be considered a great boon to the large number of females and boys who are now suffering from excessive labour (a considerable proportion of them in very high temperatures) if the measures which the Legislature may deem expedient for their relief could be brought into operation not later than the early part of next summer.

All which I humbly submit to Your Majesty's gracious consideration.

Witness my hand and seal this seventh day of June, A.D. 1855.

(Signed) HUGH SEYMOUR TREMENHEERE. L. S.

EVIDENCE.

EVIDENCE.

LANCASHIRE AND CHESHIRE.

1. GEORGE CHAMBERS, finisher.—I have been working during the last year for Mr. John Seddon, of Breightnet. At these works, during nine months of this year (not consecutive, but reckoning the number of days), the females and young boys have been averaging, at least, from 15 to 16 hours per day; i.e., beginning at 6, and ending at 9, 10, 11, and 12. The hours of rest have been, half-an-hour at breakfast, an hour at dinner, half-an-hour for tea. During the other three months, the hour of stopping has been 6, sometimes 4.

2. I have been working thirty-six years in the bleach-trade. The above has been the habit of the trade during all the time I have known it. It has been worse. Before the railways commenced, we used to work on Monday, Wednesday, and Friday nights, all night. Those were our packing nights. This was the case with all the bleach-works about the town (Bolton). There are very few new works started since then, but they have all nearly trebled, or more than that, the number of hands employed; and the same number of hands will now do double the quantity of work, through the improvements of machinery.

3. There is nothing in the present state of the machinery, or mode of working, which makes these long hours necessary. Quite the contrary. They may stop any part of the process of manufacture at two minutes' notice, without the least risk of injuring any portion of the finishing work. With regard to the bleaching, they may take the young boys away from the washing, and the females from the stitching. It may be necessary sometimes to leave the men. The finishing work employs the principal part of the females.

4. With regard to the dyeing, I have worked six or seven years in that trade, and I can say that there is no difficulty in taking away the boys at 6 o'clock regularly. I speak here of the general colours. I do not understand the Turkey-red dyeing; that goes on chiefly in Scotland.

5. I have five children at work, two sons and three daughters; the eldest is 21, the second 20, the youngest 18. This last week it has been 9 and 10 at night before they came home; sometimes it is 12, and 1, even 2 o'clock; and it very often happens that they fall asleep over their meals when they come home. My wife has been, for months together, waiting up to take care of my daughters. I consider that young women coming home at that hour of the night are exposed to great danger. At bleach-works they do not all come out at once, but by one, two, or three together, just as they have finished their work.

6. Generally speaking, two-thirds of all the hands employed in our bleach-works are females, or boys from nine to 18. There are plenty of boys at nine years of age; some few stronger ones from eight to nine.

7. From my knowledge of the people employed in the bleach-works, I believe that their education is very low; lower than that of people employed in other trades, as factories and foundries. I know that very few can write. There are few or none that are members of our institutions. The foundries stop work at half-past 5 or 6. My children have been very desirous of improving themselves in various ways, but they have not been able to command the time to give to it.

8. Very few can stand bleaching work unless they have a strong constitution, as it is now carried on, or ever could. The weak soon give it up. There is one part of the work very bad, the "clamping," which means drying in the finishing stoves, where the heat ranges from 100° to 120°, but this is done, in England, generally by men; in a few works by females, but it is not fit for them; and the men who are employed in it look very ill. If they cannot stand it, they put them to another job. They work from 14 to 16 and 18 hours a day at this "clamping." There are several men hereabouts who have been obliged to give it up.

9. I have worked, from time to time, at the bleach-works about Bolton, Manchester, Stockport, Bury, and Chorley, and the system has been the same in all of them; that is, the long and irregular hours I have stated above. According to my experience, supposing good and successful bleach-works to be at work 300 and odd days in the year, the hours of work during at least two-thirds of that time, that is above 200 days, would be from 16

to 18, from the commencement of the day to the giving over. This is the case with the whole trade, with few exceptions; the exceptions are the works that are not doing well.

10. I have scores of times seen both men and children asleep at their work, and very dangerous work too. I have known many accidents happen from it. Much of the machinery is in a very unprotected state; and it is a general opinion among the working people in the trade, that they ought to have the interference of Government to cause the machinery to be fenced and protected. I have heard within these two days complaints of some machinery that was very dangerous. There would be no difficulty in fencing the dangerous parts, as in the factories. The expense would not be much anywhere.

11. My employer, Mr. Seddon, stands neutral on the question. I have, therefore, not been discharged for taking an active part on this Committee. Out of the 17 members of the Committee, we do not believe that any one of us has been directly discharged for taking an active part in this agitation; but as two have been discharged without, as far as they know, having done anything to deserve it, they are inclined to believe that it was so.

12. Wm. Isherwood, finisher.—I have been employed in the bleaching trade 16 years, always in Bolton. During the whole of that time the hours of work in nearly all the bleach-works hereabouts have been such as have been mentioned by George Chambers, i.e., 14 to 18 hours a day, for at least 200 days in the year. I once worked a whole week with only three hours in bed. I slept a little at meal times. The slack times, generally, are from five or six weeks before Christmas. They are generally pretty brisk about a fortnight after Christmas. Some bleach-works work on Christmas-day, and some on Good Friday; and I have often worked on Sunday mornings up to 7 or 8. There are several works where the foremen encourage the working on the Sunday, even during Divine Service. I believe this arises generally from bad management, and that there would be no necessity whatever for their working on Sundays, or there being long hours; if they were all restricted to 10 hours, the work would be regular, and the same amount of work would be done, and better done; I am confident of that. The cloth would certainly be better. When the cloth is bleached in a hurry they are obliged to use more drugs, i.e., chemical agents, which injure the cloth. Sometimes a whole order is injured by this, and the cloth is sent back.

13. Mr. Richard Pearce.—I was upwards of 20 years paid teacher to the Mechanics' Institute of Bolton, and during that time there were not two per cent. of the bleachers who attended my classes. I have been employed for the last 15 months by the Bleachers' Short Time Association, as their secretary. It was formed 16th May, 1853. It is supported by nearly the whole body of bleachers about Bolton. We have collected about 500*l*. Some of the hands are afraid to contribute; if they did, they would be discharged, they say. We meet twice a week, one committee meeting, and one general meeting. At the general meetings there have been as many as 150; generally from 30 to 40. At none of our meetings has any intoxicating liquor been ever allowed. This is a proof that we are in earnest. Our first act was to appoint a deputation to visit all our masters, to see if we could come to some arrangement. Mr. Robert Heywood was in favour of it, also Mr. Bealey of Radcliffe, Mr. Marsden of Burnden, Mr. John Seddon; we believe that Mr. Bridson was also favourable. Mr. Bealey and Mr. Marsden appear to have changed their opinions since. We believe that their greatest objection is to having inspectors coming into their works. [Further evidence, p. 8.]

14. John Waring.—I have seen as much as any man of the disadvantages of our long and irregular hours. I am 29 years of age. I have been employed as a bleacher 19 years; and when I was 21 I could neither read nor write. Four of my uncles, and my mother, and an aunt, in consequence of the long hours at the trade, could neither read nor write. I had a sister, also, who learnt to read and write after she left the bleaching trade, and went to work in a factory. I had a brother in the bleach-works, but he died in consequence of colds caught at the work. The works that I have been chiefly employed in were noted for long time. With Mr. John Slater I worked 14 years; I worked for Mr. Thomas Cross for three years. For about seven years at Mr. Slater's, I think I worked generally about 15 or 16 hours a day, with the exception of a few weeks at Christmas. Mr. Slater employs about 100 people. He used to employ a deal more, at least 140; machinery now requires fewer; at least two-thirds were females and boys. All these had very little education. I myself learnt to read and write after I was 21 years of age; that was because I had more opportunity of learning, as I worked with Mr. Cross at drying, and we generally stopped at 6 or 7.

15. It has been commonly noted in this town, that the improvement of the young people, in consequence of the Factory Act, has been very great. We have in this town a Progressionist Reading Room and School. They pay 1*s*. a quarter, and there are better than 200 members, principally factory people. There are none of our trade there. There is the Bolton Mechanics' Institution, 320 members, and none of our body. There is the Bolton Free Library; the number of books that have been taken out in the last year were, by the artizans and labourers, 1,327; by the warehousemen and others, 117; mill hands (factory hands), 215; assistants in shops, 169; clerks, &c., 219; shopkeepers, 78; bleachers, finishers, and dyers, only 70. We are the largest body employed, with the exception of

factory and the iron trades people. Our total numbers in the list given to you are 2,800. The rate of wages earned in the bleach-works is not so high as in the factories; men are generally rated from 12*s.* to 18*s.* a week all the year round for piece-work. We would make shift for money, if we had the time to give to education and improvement.

16. In July last I was in conversation in the lobby of the House of Commons with Mr. Howarth, of Wallsuch's bleach-works, near Bolton. I said that we were prepared to prove that we often worked in the bleach-works 16 hours a day. Mr. Howarth said it was not so, for he was prepared to swear that they did not work eight, taking the year through. I said, if they worked only eight, it was no use for them to come up and oppose a 10½ hours Bill, for it would not harm them if they only worked eight. He said, "But sometimes we work 16." I replied, "That is just what we have come here for; we want to regulate it so as to prevent these great number of hours coming from time to time."

17. It may be asked, why do not the boys and young people take advantage of the slack time which they have from time to time to improve themselves, and to subscribe to libraries, &c. The reason is, that, although the work may be slack at the works, the hands are never sure of the hour when they may stop, and they are obliged to remain on the spot, for if they went home they might be sent for. This happens both in the bleaching and finishing departments. There are various sets in the bleach-works; one set would be doing the work in the forenoon, and the others waiting, not knowing the time when the work may be sent in to them. One party may have done soon and another late; they never know; so they are all obliged to stay.

18. One thing makes the working classes feel that they ought to have this Bill, that is, that, as machinery have been so much improved, it is hard that the labouring classes should not reap a corresponding benefit from it. We are aware that the improvements of machinery have benefited the trade generally, and therefore the labouring classes also, by extending the trade and employing more people on the whole; but when machinery can do so much that human labour used to do, we think that human labour ought to benefit, so far as to have more time for moral and mental improvement. We have no doubt that this can be done without any injury to the trade, as in the case of the factories, and indeed with a benefit to it.

19. We have stated in our manifesto that "no section of the working community is condemned to such long hours of labour as we are." This is strictly true. Next to the factories, the iron trade employs most hands, and they have a regulation of their own, and work only from six to six as a rule. Next to them are the bleachers and dyers. The dyers are not so much subjected to working long hours. Most of them regulate themselves, so as not to work more than 10 hours a day, exclusive of meal times. Some of them work long hours, and therefore they wish to be included in the Bill. Some bleach-works dye also, some do not. The dyers at some of the bleach-works are very eager for the Bill.

20. We do not believe that any people in the kingdom, except the seamstresses in London, work such long hours as we often do. We have collected nearly 500*l.* from the workpeople in the trade since the agitation commenced 15 months ago. The subscriptions of those who subscribe is a penny a week. We publish quarterly reports, which show how the money is expended. We distributed 7,000 of our manifestoes, and from 1,000 to 1,500 of our quarterly reports. Our chief expenses have been about our law expenses, in drawing the Bill, and sending deputations to London. There are 17 members on the committee. The committee meets twice a week. Each member of the committee who attends on Wednesday is paid 3*d.*; they are paid nothing for their attendance on Saturday night. The secretary and myself are the only ones who have permanent salaries, to look after the business of the association. Mr. Pearce is not a bleacher; therefore it is necessary that one of us, who is a bleacher, should be permanently engaged. The secretary receives 15*s.* a week, but the committee raised me to a pound without my knowing it. This was about six weeks since. I had not applied for it.

21. By the Factory Act children of eight years of age can be employed. These are called half-timers up to 13, and they are compelled to go to school by law for half the day, or every other day. The masters in our trade would not like this, and very few so young as eight or nine have ever been employed in bleach-works. We therefore propose that the age should be 10, below which a child should not be employed; and we do not propose that they should be obliged to go to school half the day, or every other day. As the masters would be opposed to this, we are unwilling to go against them in this matter. We think they would get some education before 10, and then go to night-schools. There are many night-schools in the town, and near the bleach-works. My brother attends one of them, and he is learning very fast. He is 11 years of age. He has commenced going since he left the bleach-works. He is now with a coachmaker.

22. We see no reason, that is, the committee see no reason, why children should not be kept out of the bleach-works till 11. It is work not fit for children so young as nine or 10 to do—handling wet and heavy cloths, and being so long in heated rooms. They get wet at their work, quite through, in bleaching, as if they had been rained upon, and are constantly coming to the engine-fire to dry themselves when they have time. All the steady men in the trade would be glad not to have their children at such work till they are 11 years old. The others, who spend their money in public-houses, might not like it, but if they spent their money properly they would be well able to maintain their families,

although they kept their children from the work till they were 11. It would be much better for the children; they would make stouter young men and women, as I have noticed often myself, when they have commenced working later. It would be a grand thing if they could start at 11 instead of 10; it would be much better for every one; and asto their learning, they would learn a deal more between 10 and 11, which they would never forget. Their minds would be more capable of bearing it at that age, and it would do their characters great good as well.

23. The quantity of children under 11 in bleach-works is small, so that if none were allowed in before 11 the masters would experience very little inconvenience from it, and they would have a better class of young people growing up. There could not be a doubt of that. I have worked nearly 20 years in bleach-works, and I am quite sure that if none were to be employed before 11 it would end in a good result.

24. I am sure that the masters, rather than be hampered with short-timers, would be willing that no child should be employed till 11, or even 12 years of age. I do not think that at Mr. Ainsworth's there are any children under 12; but we should be satisfied with 11, as that is as soon as they are fit to work in bleach-works.

25. Some bleach-works are far from any school; and if the short-time system were adopted, they would have to erect a school for just a few children.

26. We do not propose to legislate for adults. If this Bill were to pass, many men might still be employed those long hours, such as in the beetling process, and in the packing rooms, and in the bleaching wherever there was not improved machinery; but where there is, there are only a few men to look after the work, and the principal number of hands are boys and females, as, for instance, to 10 boys and five women there will be three men. This would be in a work employing 100 people.

27. In a bleach-work employing 100 people, where beetling is done, there would be 12 or 14 men at the work of beetling, and about 14 or 15 men in the packing-room. Those men would not be affected by the Bill. The men in the making-up room, about half a dozen, might or might not be obliged to leave off with the women and boys and young persons, i. e., lads between 10 and 18, or better, between 11 and 18. That is our proposition. There would be about 12 in the clamping-room, and they might not be affected by the Bill. It would not affect adult labour to the extent that the Factory Act does.

28. In a bleach-work employing 100 people, which is a fair representation of the whole, the Bill would affect certainly the three men in the bleaching department; and some days it would affect those in the making-up room, and some days it would not. If the men were "straight" with the "hookers" (generally females), or if they had made up cloth as fast as it was hooked, the men would be obliged to leave off when the women did. This would generally be the case. If the masters were to take on extra women, in consequence of this Bill, without taking on at the same time extra men, the men would have to work after the women left, the same long hours they do now. But the master might take on men in proportion to women, and then they would all have done at once. This would not cost the master one halfpenny more, as the work is all done by the piece. It would be a saving to the master in not running the engine so long, or not burning gas. I have seen the time when they have run the engine two or three hours for a few hands. At some engines they burn a ton of coal an hour, costing about 4*s*. or 5*s*. a ton. As to the gas, there are sometimes 25 to 30 lights in a room; and I have scores of times seen this number of lights kept up for several hours for three or four hands, instead of 20 or 30 that work in the room, for a little work that might have been done in the day time, and would have been if the hours had been restricted.

29. The masters alleged in their memorial to Viscount Palmerston (See Appendix A.) that the application of a 10 hours Bill to their works would increase the cost of bleaching, and make it probable that a great part of their business would be transferred to America, India, China, Holland, and Germany.

30. This is a point which our committee, and the labouring people generally, have very much considered, and we are of opinion that it would not be so. We think that with a 10 hours Bill the masters would reduce the cost of bleaching in many ways. For instance, as I have already said, extra drugs are used in busy seasons when there is a great press of work; and this is not only liable to damage the cloth, but it costs more to do it. Then, I have known that in such periods they have had to hire extra horses, while in the slack periods their own horses are idle; besides which, in those slack periods all their day-labourers have to be paid, such as the engine-men, millwrights, managers, smiths, clerks, carters, and these have from 18*s*. to 36*s*. per week, and there are a good many of them belonging to each bleach-work. Then, when they are not doing full work, there is all the interest in the capital lying idle. Then it is common enough, as I have said before, for the engine to be running for only a very few hands, and the gas to be burning; and I have often wondered that the masters have not turned their attention to that, because they must be often losing money by it. The manager often orders it, without the master knowing it, to get a few lots of cloth done. Besides this, all those improvements of machinery have "come up" within the last four years, and only about four masters out of the whole of Bolton are without them; they are called "bleaching machines;" and one improvement in these is likely to bring another out. But in the drying process it is only just lately that a new mode of drying has been adopted, by which one man and a boy can do the work of two or three men and boys. It affords a great saving both in steam and in labour. In

some works there will now, under the old plan, be 17 or 18 men employed in drying rooms, and about eight boys to that number of men; at smaller works there would be eight or nine men and eight or nine boys. The first of these machines has just been put up by Messrs. Eden and Thwaites, near Bolton; and it is thought that it will soon be extended to the whole trade.

31. They have "speeded" the calendering and mangling processes, and there is no reason why they should not speed them still more, or increase the quantity of work in other ways.

32. A patent has been taken out for a new mode of beetling, by which the machinery would cost less, and it would take less engine-power to drive it.

33. In all these ways we calculate that the cost of bleaching and finishing might be reduced if there was any danger of losing the trade.

34. I know for a fact, that two years ago, when I was working for Mr. T. Cross, he used to give 30*s.* and more per "kier" or cistern full of cloth (for bleaching). Just after that the new machinery was introduced, and the same quantity of work is now done for seven shillings, which would make very good wages.

35. There is a new machine for dressing. It was the new machinery for bleaching that led to this. It was introduced about two years since. Before its introduction the men used to be paid 13*d.* a hundred pieces of 26 yards in length; now they are paid about sixpence for the same quantity, and they make better wages now than they did at 13*d.* Besides which, it is done quicker, and therefore is a saving of coal to the master. All the masters who have got the new machinery for bleaching, have got the new machinery for dressing. It saves a great deal of time. By the old plan only two to 20 pieces could be dressed at a time without stopping and changing; now, 30 hundred-weight are stitched together (perhaps from 160 pieces to 500), and are all run over the hot plate without stopping. At any of those works they could dress in 10 hours more cloth than they could bleach.

36. I do not think, that any out of the seventeen members of our committee have had less than three or four and twenty years' experience, on an average, in bleach-works, and what I have stated is what they have all often expressed; and we have frequently invited the masters, both by circular and deputation, to come and discuss these and other points with us. None have done so, but a few of them sent us letters in our favour,—Mr. Marsden, Mr. Heywood, Mr. Seddon, and Mr. Bealey of Radcliffe. There are no larger employers in the trade than these, except Mr. Ainsworth and Mr. Ridgways; and also Mr. Bridson and Mr. Hardcastle, who have two works each.

37. The masters say, in their memorial, that the supply of goods to be bleached fluctuates. It does not fluctuate by reason of there being any particular season for which goods are required. The orders come to Manchester for goods for India, China, Australia, and all other markets, at all times of the year; and the bleaching trade has nothing to do with seasons either for the home or foreign trade. If there were seasons, all the bleach-works would be slack at once and busy at once, which is not so.

38. In the masters' memorial it is said that, when the Printers' (Calico Printers') Bill was before Parliament (1845), the application of a 10 hours Bill to the bleach-works was considered by Government. If it was considered, the working men in the trade knew nothing about it; not one in a thousand knew it. None of our committee knew it. If the men had known it was being considered then, they would have taken some means to let the Government know their opinion about it.

39. The masters say also that, "from the evidence of the most respectable medical prac-
"titioners, and the Sick and Burial Societies, it is clear that the mortality in this branch
"of the cotton trade is lighter than any other."

40. We do not deny this, because it is only healthy and strong people that can stand the work; besides this, we are much in the open air, and the slack times give opportunity for recruiting our strength. But with all this, if we are better in health than the people that work in the factories, that is not a fair comparison, because they are not the strongest part of the community. We might be better, and should be under a more regular system. Besides, seven medical men in this town sent letters to our secretary, which I saw, every one of which condemned the long hours system as injurious to health; and twenty medical men of this town, out of about three and twenty, signed our memorial to Viscount Palmerston, in favour of our bill. One of those who did not sign, said he sympathized with us, but did not wish to offend the masters. The other medical gentleman keeps a public house, so we did not wish him to sign. The third is a gentleman in respectable practice, who is very friendly with the masters.

41. The masters say, in their memorial, that "children under ten years are not required in bleach-works;" that therefore to forbid their employment is needless. But children under ten years of age are employed in bleach-works; not very many of them now, but before this agitation began, a good many were, taking all the bleach-works together. The masters have been more careful about this, since this agitation began.

42. With respect to the clause in the Factory Act which obliges masters to keep the people from being wetted, we think that it is wanted in this bill. My master, Mr. Cross, has put up wooden shafts, which take all the steam off, and prevent its wetting the people at work. He also has the cloth passed by machinery into a different room from where it is in a wet state, so that the women receive it as it comes to them without their being

wetted as they used to be before. My master is a very good one for improvements of that kind, but his people work very long hours often.

43. In what I have told you in this evidence, I think I have fully represented the case of us workmen, and I do not think I can add anything to it on our behalf. [See further p. 44.]

44. Robert Heywood, Esq., Crescent Bleach-Works, Salford.—I am proprietor of the above bleach-works. I have had them about 15 years.

45. I am favourable to the reduction of the number of hours for the work-people. When the reduction of labour in the factories was first canvassed, I was opposed to it as an economical principle; but I have heard from so many parties, both employers and employed, that great benefit has arisen from that measure, that I am quite disposed to extend that principle to the bleach-works. They are indeed not parallel cases, because the factories can supply themselves continuously with the raw material for their work, whereas the bleacher is dependent on the order which he receives from time to time from the merchants. These merchants carry on business at Manchester, and they are in the habit of sending large shipping orders to be executed immediately. They defer giving their orders until the last moment, with the view of watching the state of the market. While the market is falling they put off their orders until the last moment, which, of course, causes a great push in the bleaching. Formerly, that is more than 50 years ago, cloth used to take a long time bleaching; since then there have been various improvements in the process, by the introduction of machinery and chemical means chiefly, so that now it takes only a few days. If necessary, it can be done in two or three days; that is, a small quantity; but it might rather deteriorate the cloth.

46. The work is chiefly piece-work, and the men are therefore, to a certain extent, parties to the long hours, when they do come; but they are unwilling to let the work go to other employers, especially if they have been short of work for a time before. It may happen sometimes that a bleacher may have an offer of a great number of pieces, provided he can return them in a certain time, for some ship about to sail. The men would often rather make extra efforts than that it should go elsewhere. There are works which are always full, and the excessive labour is in them continuous.

47. Several large bleach-works have been very much extended during the last eight years, and their capacity of production so much increased, that even with reduced hours, my opinion is that they would be able to execute the same quantity of work in the course of the year.

48. There are various kinds of finishing required for different markets; the merchant does not know beforehand which particular kind he wants until the order comes. He therefore objects to having them finished beforehand. Generally speaking, he goes into the market, buys the cloths in the grey state, and then sends them to a bleacher.

49. Henry Waring, bleacher.—I have been 52 years in the trade; I am now too old for the work and am turned off; I was turned off about five months since. The last employer I worked for was Mr. J. Slater, Back of the Bank works; I was there 38 years and a month at their works. When I first began working we used to commence work at 7 o'clock on Monday morning, and six every other morning, and left off regularly at 6; that lasted eight or nine years. Mr. Samuel Worthington owned the works then. I then went to Mr. Slater at Dunscar, two miles off from here; we commenced there working piece-work, and then the hours used to be 15 hours a day generally, sometimes more. I remained there two years. I then worked for Mr. Cockar, who then owned the Back of the Bank works, and I was a foreman there about 14 years and six months; since then I have been under Mr. J. Slater there. Mr. Slater brought his own foreman, but gave me a place as washer of white cloth; and I had under me three boys, five young men, and two men. I was about 21 years at that job; during that time I think we worked mostly from 15 to 16 hours a day for 11 years. The rest of the time we were about 14 hours, within a trifle. It was all piece-work. I was 20 years and never lost a day; there were very seldom any slack periods; there was usually a "throng of work," and we worked those number of hours. If a master wants this work done, and a man will not do it, he is turned off, and frequently his quittance paper is given him with a certain mark upon it; all masters know it, and they will not employ him. Those lads that used to work with me are now 20 years of age, and cannot tell a letter in a book. There are many a score in the same state. A little time ago people came to inquire about the different religions we were of, and many a score did not know, and did not belong to any. Formerly I have known many families who had never been undressed for a week; my wife was so many a time; but now this is better, and does not so often happen; but it is still very bad, often 14 or 16 hours a day.

50. Supposing the bleach-works to be put under the same law as the factories, if the master of a moderate sized bleach-work wanted to do the same quantity of work in the year that he does now with 14 to 16 hours a day, all that he would have to do would be this: it would take him eight to nine months to put up some more machinery, and he might have to employ one man more for every six men, and one boy more for every six boys, and girls in proportion, that is, one sixth more labour; and the work would be better done, so that the master would gain by it. Now they are so dull and sleepy that they mar their work,

and if they do so, it is sent back by the merchant, and the "hands" have to do it over again for nothing; although when they marred it, it was because they were worn out. It gets marred in the bleaching, because they have to use extra drugs when they want to do it fast; but even then, if the cloth is returned, the hands have to take out the starch for nothing, and the finishers have to finish it over again for nothing.

51. DAVID HASLAM, finisher.—I have been in the trade about 23 years. I have been chiefly in the employ of Messrs. Hardcastle, for about 20 years. I left them about a year ago. While I worked for Mr. Hardcastle, at the commencement, I used to work about 18 hours a day, with the exception of a month or two in the year, sometimes in the spring, sometimes at the latter end of the year. Five or six years ago, the work got more regular; less work came in, and we did it in 12, 14, and 15 hours. Out of that we had two hours for meals. I am now at work for Mr. Marsden, Burnden Works. We are making now 15 and 16 on an average. It was going on when I went there, and has been continued ever since. It has been going on for about 12 months. There have been working with me three boys, from 11 to 15; and five girls, one short of 11 years of age; the other 15, the other a little older. We start at 6 o'clock, and end at 9, 10, 11, and 12. These boys and girls have no more rest in the course of this time, except two hours for meals in the day-time. If they stop 10 minutes for supper, between 9 and 10, they have to fetch up the time lost. Sometimes they are very tired. I have seen them fall asleep while they have been waiting for the work. It is very often the case that they go to sleep over their work.

52. We commenced night-school several times when I was with Mr. Hardcastle; a teacher taught us gratuitously, and we have gone a night or two; and work has come in, and we have been forced to give it up. I can write a little.

53. RICHARD PARTINGTON, finisher.—I have been employed at this work for above 18 years; first with Mr. Sykes, of Stockport, for seven years; then for Marsden and Co., Stockport, for four years; then for Mr. Hayes, of Bolton, for about 4 years; then for Mr. Obadiah Ashworth, in Manchester, for 18 months; then for Edw. Hollins and Co., Tootle Bridge, near Bolton, for about four years; now I am working for Mr. Ridgway Bridson, near Bolton.

54. The objection made to putting the bleach-works under the same regulations as the factories is, that if they were, the bleaching trade would be driven away from the country. I do not think that it would be so. A little time ago I had a conversation with one of my late masters on that subject. He said, "You are engaged in a very dangerous agitation; "it is a very dangerous thing to meddle with, inasmuch as it will drive the bleaching trade "from this country." I said, Look at the old system of the cotton-spinners and the merchants before the Factory Act passed. The merchant used to go to the cotton-spinner and say, "I have got an order for so many thousand pieces of cloth for China or India, and if you can make them by a certain day, you shall have the order." The cotton-spinner used to accept it, and work his hands more hours; taking half an hour in the morning, i.e., beginning at half-past 5; cutting off 10 minutes from their dinner, and very often working them half an hour and much more, even to 9 and 10, in the evening; so he got the work done. Now the merchant does not say, "Will you do so much within a certain time?" but, "How much can you do?" If the cotton spinner cannot do it all, the merchant gives the rest of the order to somebody else. But the real fact is, that the cotton spinner has added to his machinery, and gets the same quantity of work done, or more. If he has not, those cotton spinners, who were not always fully employed before, are so now; they have got what the other could not do; that is where the Act has benefitted the smaller capitalist. This is just what would happen in the bleaching-trade. What the larger masters and those with the best connexion could not do, the the smaller ones would do, who are now not always full. Out of a list of 19 bleaching firms in and near Bolton, about eight are generally full; the rest are not. Those eight are not the largest; Mr. Ainsworth's is the largest, and his works are generally in full employ. The chief part of the bleaching-trade in Lancashire is about Bolton.

55. Last July I was present in the lobby of the House of Commons, when Mr. Blair, of Mill Hill Bleach-Works, Bolton, made a statement to Mr. Fielden, M.P., and showed him a list of hours taken for the last eight years in his works; and it showed that, if the work done had been divided over the whole year, it would not average more than 10 hours per day. Those are large works; they bleach and finish about 10 tons of goods a day. Their machinery is upon the best principle, and they have thrown lately 30 or 40 people out of work in consequence.

56. In 1842 I worked eight days, without ever seeing home or a bed, at the works of Marsland, Veltman and Co., Stockport; and for about 18 months following that, at the same place, I never saw home in daylight, except Sunday, neither summer nor winter. Since that I have been six or seven Sundays together, working from 6 in the morning to 6 in the evening, having worked during the whole week 18 hours a day, and up to 12 o'clock on Saturday night. This was at Mr. Hayes' (now Mr. Marsden's) bleach-works, near Bolton. There were about 100 people employed. The whole of them were working 18 hours a day; but I was the only one, with a few lads, who worked on the Sunday, calendering. This was because the calendering was done by a water-wheel, and to save coal they would not lose the water on Sunday. I have constantly seen most improper things

going on, in consequence of the young women being kept so late at their work. They are very much exposed on their way home at such times of night. They are also often so tired that they sleep about on the works with the men and boys.*

57. It has been the same, as to the long hours of work, at every place I have worked at; it is so now. I have been working for the last two months with a new master, and when I left it has been 12, and sometimes 1 in the morning. There are about 20 in the same department, working the same number of hours, both girls, women, boys, and men. This is at Mr. Ridgway Bridson's, Bolton. Out of the 200 employed there, I think that two-thirds must have worked as long as I did.

58. I have a desire to improve myself, by attending lectures, and using the books of the Bolton library, and such other ways; but I can never be sure of my time, and if I subscribe, I am liable to throw away my money. I know plenty of young men and women who do not know a letter, and they would be very willing to learn and to improve themselves if they had the time. Those that have families, too, have no time to attend to their children; it is not the teaching only in schools that the children want, it is the being attended to at home, and taught what is right by their parents, and well looked after in many ways; that must all be done, if they are to grow up decent and well behaved.

59. James Bogle, finisher.—I am 30 years of age. I have been engaged in the bleaching trade six years. I have always been in the employ of Mr. Hollins, Tootal Bridge, all that time. During the last four months, in my branch, I have been employed from 6 in the morning to 10 at night, with the exception of Saturdays, when we left off from 4 to 7. I have had working with me eight females from 12 up to 20 years of age, and three boys from 16 to 18. During the previous eight months of this year the hours have varied from eight to 10 and 15 working hours, more frequently 10, i.e., from 6 to 6, with two hours off for meals. We have had "pushes" of this sort, from time to time, all the time I have worked here. I am unmarried. I do not think it right for young females to be employed such a number of hours; they often complain to me, and wish that this Bill was passed; many a time in a week they ask me about it. They are very tired with the hard work; they have to work all the time they are there, and I do not know how the children stand it. It is 11 o'clock before some of them can get to bed.

60. I have witnessed them come to their work in the morning looking so livid, that they did not appear fit for work. I have heard them say, many a time, they wished they could give over sooner at night, that they might not be so tired when they come in the morning.

61. John Hamer, finisher.—I have been 14 years in the bleaching trade. I was employed at Messrs. Hollins', Tootal Bridge, Bolton. For the last four months I have been at work from 6 in the morning till 10 o'clock at night, except on Saturdays, when we left off from 4 to 6 and 7. One morning we went to work at 5 o'clock, and worked till 6 the morning after; all the sets were working the same time, I believe 20 and 30 hands; of these there would be eight females from 12 to 20 years of age, and six boys from 13 to 18. We have sometimes worked till 11 and 12, but to 10 has been the rule. We stop half-an-hour for breakfast, an hour to dinner, half-an-hour to tea. The girls and boys are very much tired after their work. It is very hard work. You have to work as hard as ever you can the whole length of those hours. It is piece-work; putting the rollers on and taking them off.

62. Before those four months, we were sometimes busy, sometimes slack. When we were busy, we were averaging 15 hours. It has been better since the agitation commenced for this Bill, about 18 months ago. Before that, we used to work on Saturday nights till 10 and 11 o'clock; now we always stop at 4, or not later than 7. But if we do not get this Bill, it will most likely go back to what it was.

63. By reason of these long hours, I have been, for these last four months, without seeing my children only in bed, except Sundays, or by chance on Saturday nights. My eldest is four years and a half old. My wife stays at home. A father ought to be at home sometimes, or his children will grow up in ignorance of many things they ought to know, and he ought to exercise an influence over them in bringing them up. If a father is at home he may often check his family, or he can instruct them a bit; I could get books from the library; or I could take my family to the park to walk about with me.

64. With these long hours I have been so tired, though I am a strong and healthy man, that I have often to sit at my bed-side when I get up in the morning, and my fingers are so stiff and sore that I cannot dress myself. If I feel thus tired, what must the young girls and boys feel? They look so tired, when they come in the morning, that they do not look fit to start with their work.

65. Mr. Richard Pearce, designer, secretary to the Bleachers' Short Time Association.—Sunday work has now been abandoned at most of the bleach-works, but it still continues occasionally in some of them. On Sunday last, December 10th, I saw the steam and smoke ascending from the chimnies at Mr. Thomas Cross's, of Moat-field, and I heard the machinery in active operation. Three different persons told me that they had been taking breakfast to their relatives, who were then at work. A portion of the hands worked there last Sunday but one from Saturday morning till 5 o'clock on Sunday morning, and then went to work at 10 o'clock on Sunday night.

* An expression of opinion on that subject has been withdrawn as objected to.

66. Between two and three months ago I saw a man going to work on a Sunday at Mr. Charles Whewell's, of Two Brooks, near Bury. I know it, because I asked him, and he told me he was. This was about 3 or 4 o'clock in the afternoon.

67. JOHN WARING.—I have seen men at their work on Sundays at Messrs. Smiths', Great Lever works, Bolton. I have seen them this last summer. I saw a man about a month ago, who told me he was going to his work there then, at 10 o'clock at night, after taking his wages to his wife (for he had been working all day); and he said he was going to work till 9 o'clock on Sunday morning. William Isherwood's brother worked frequently on Sundays for six months. That was two years ago.

68. WILLIAM JOHNSON, finisher.—I am 24 years of age. I was 11 years of age when I first went to work at the bleaching business. I worked first for Mr. Fletcher, Leylands, 10 years. I now work for Mr. Thomas Cross. At my commencement at bleach-works I began at 12 o'clock on Sunday night, and worked till 8 o'clock on Monday night; then we started at 6 o'clock on Tuesday morning, and worked till 12 o'clock at night; and we did that for two or three months without stopping. This was general in those works at that time, and was so all the time that I was there. They are very seldom slack there. There are better than 100 men, girls, and boys employed. My brother is at work there still. He told me, last Sunday but one, that they were working 17 hours. He is a finisher. I have been at a worse place than that for long hours since; at Mr. Whowell's, Two Brooks. I was 15 months there. They would average 15 to 18 hours a day for the whole 15 months. We began generally at 12 o'clock on Monday morning, and the girls rejoiced if they sometimes had not to go till 3. They stopped at 12 o'clock on Monday nights. This was the general thing. There are no regular meal-times allowed, only sometimes an hour for dinner; but their breakfast and tea they take as they can, and the manager does not like them to be long about it. There are about 60 hands employed. There are a deal of young girls, one or two under 10 years of age. There were employed in my room (the making-up room), 10 girls between 10 and 30 years of age, and four men. I have seen the girls, when they have been taking a piece from the pulling-up machine, fall asleep; one of them was not 10 years of age. The child looked as pale as a piece of the cloth. I have seen men take this child in their arms, and say, "they wished they could see it at London in this state;"—that is, so livid and wan from the work. I mean, that if they could see such things in London, they would know that there was a want of such a Bill as this. As to the older ones, I have often and often seen them down asleep, not being able to hold up for their work. If the manager had gone out they would drop down in a minute in the "packing boxes," and go to sleep. These boxes are to put the pieces of cloth in to keep them clean, and the girls have to hook the cloth up by one edge before doubling up. They often have asked me if I could tell them if the Bill was going to pass.

69. The men who have come forward to agitate this question are nearly all finishers. They are much more numerous than the bleachers, and the finishers have been better able, from their having in general a little better education, to employ themselves about getting this Bill.

70. Another reason is, that machinery is doing away with men's labour in the bleaching department, and substituting that of boys. For instance, in one work that I know, out of 40 men and boys, there are only 12 bleachers. Formerly such a work would have had 40 bleachers and more. This is why the bleachers do not take such an interest in the matter as the finishers. All in a work who are not bleachers, are one way or another finishers. The different departments in a bleaching-work are in their order as follows:—

Dressing-shop.
Bleach-croft.

This is the bleaching department.

71. Then come the finishing processes:

The mangling-place.
Drying-house and clamping (stretching) rooms.
Beetling place (making up the same as a linen piece).
Calendering and mangling.
Making-up and packing.

72. The hot places are the drying, clamping, calendering, and stove. There the temperature is from 90 to 120°. In England not many girls are employed in these hot places; there are a few at some works. In one work that I know, where 150 people are employed, 12 work in these hot places. This is at Mr. Seddon's. At Mr. Fletcher's, at Leylands, out of 150 hands about 16 work in those high temperatures. At Mr. Thomas Cross's, Moat-field, there are about 24 out of 110. All these make long hours, and generally they are the worst for making long hours. When I was 14 years of age I worked in 18 hour shifts in a clamp place. I worked in this way about six months on end. I was always stripped, except a pair of linen trousers. I was so tired, that I have sometimes given myself blows by knocking my head against a pillar that I had to walk by.

73. I worked for Mr. Fletcher, at Leylands, as I said before, 10 years. When I went away, he could not give me a bad character. He never reproved me in his life, that I know of. I left him because I wanted to better myself. I told him so, but when I left he would not give me a character. He only gave me "a quittance." The cause was, he did not

want me to leave. He said, "he had brought me up to what I was." I was then 22. He had put me to a part of the business (the stove), which was a worse job than what I had before; and I did not like it, so I wanted to go. I applied to many masters, but I suppose it was because I did not bring a character with me. I did not get employment for nine weeks. I do not think there is any man on the committee of working men who are endeavouring to get this Bill adopted, whose characters will not stand investigation.

74. [The following witness stated, "If what I have said is published with my name, I shall lose my situation. I expect my master would turn me off, and I should not do anything that would injure my wife and family. I have worked for my present master nine years. He might turn me off, and hinder me from getting work at other places. My master has never had any cause to complain of me, nor I of him. There is no steadier man for minding my work than I am."*

75. This witness is well known to the Committee as being a steady man.]

76. JOHN WARING.—I am well acquainted with the witness who has expressed a wish that his name should not be published. He is known to the Committee as a steady, trustworthy man. There are hundreds like him in the bleach-works, who wish for the bill very much, but are afraid to come forward. They are afraid that their masters would turn them off. If they were to be turned off without a "quittance paper," or with a "quittance paper," marked in a peculiar way, they would not get another master to take them.*

77. JOHN SCOLES,† finisher.—I am 42 years of age. I am working for Messrs. Blair and Sumner, Mill-hill, and have been in their employ nearly nine years. I have been always in the finishing department. We now start sometimes at 4 and 5 in the morning, and continue till 7 and 8 at night; we have done that for the last few days. Before that, we have not been very busy for some months back. We have been sometimes, during the year, for about two or three months at a spell. We were then making about 14 hours a day, not reckoning meal-times. My masters have the best kind of machinery, and get through more work in a shorter time. This is the reason why the hours have not been so long as at other works. They have been going on improving their machinery ever since I came to them. When I first went to them, we used regularly to start about 4 to 5 in the morning; and as we were generally pretty busy, we used to work till 9 or 10 at night. The improvements in the machinery have chiefly affected the bleachers, manglers, and dryers; but it has an effect upon the whole, as one party has to keep up with the other, as near as they can.

78. From the 1st of August till the 13th of September last, I took an account of the number of hours I worked. They were as follows:—13 hours, 6, 12, 14, 11, 18, 10, 12, 6, 13½, 11½, 11, 17, 13, 12½, 10½, 4, 10½, 13, 13½, 18, 9½, 13, 9, 10½, 12½, 11½, 7, 16, 12½, 12½, 12½, 13, 10½, 12, 12½, 7½. [Average, 11½ hours.] Those are the actual working-hours, meal-times not reckoned. This was at a time neither busy nor slack, a middling time. We have to work long or short hours just as work turns up. We should average longer hours than those, taking the year through.

79. There are about 100 people employed at Messrs. Blair's works; of these there are about 40 women and girls. All these work the same hours that we do. The females are from 12 years of age up to 26. There are about 30 boys, from 13 or 14 to about 18 or 20.

80. I am a subscriber to the fund to endeavour to get this Bill, but I am not on the committee.

81. SAMUEL PRICE.—I am 52 years of age. I was in the employment of Messrs. Ainsworth, of Halliwell, near Bolton, for nearly 42 years. I was nearly all that time in the packing department, and I do not think I neglected my work for one hour during those 42 years. I was off three weeks at three different times from sickness, and that is all. I have been a man of temperate habits, otherwise I should not have kept up at that work. I am no longer in their employ. Last April the manager wanted to put me into another situation which would have been injurious to my health. He wanted to move me into the mangling, stoving, and drying department, where I should have been exposed to great changes from cold to heat. I should have had to go from the hot stove-room out into the cold mangling place every hour about. The heat in the stove-room is about 130 to 140 degrees sometimes. In the mangling place the temperature varies very much according to the weather. The change also is between wet and dry; that is, I should be wet in the mangling place for about an hour, and then into the hot stove again for about a quarter of an hour, then into the cold mangling place again.‡ I told the manager and also Mr. Ainsworth that it would upset my health, and I asked them to give me some other situation. The manager said he could not find me any other situation, so I left them. They have no fault to find with my character. I am still on good terms with my former masters, and I have two sons working with them.

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* I did not learn that there were sufficient grounds to justify this apprehension.

† By accident this witness's name became known to his employers, but I feel assured that those gentlemen have not the slightest intention of visiting him with their displeasure in consequence of his having given this evidence.

‡ This statement appeared on inquiry to be somewhat exaggerated.

82. During the long time that I have worked with Messrs. Ainsworth the hours have varied greatly, in proportion to work. When I first went there I used often to work from 7 or 8 in the mornings till 12, 1, and 2 at night. That was when we were busy, and it used to last some times for five or six months together. It went on in this way for a great length of time. From 10 to 12 years ago they began to improve the machinery, and great improvements have been made in it; but they have worked fully as long hours since that as they used before. The Messrs. Ainsworth are considered to have the most extensive concern in the trade, and always were so since I can remember. They employ about 400 hands in the bleaching and finishing departments, besides mechanics, labourers, &c. They used always to employ about the same number, as near as I can think; but they now do a great deal more work in the same number of hours through the improvements in machinery. Taking the year through, we worked from 15 to 18 hours on an average; there was seldom any slack time; we used to call ourselves slack when we gave over at 3 or 4 o'clock, beginning from 6 to 7; but it was mostly from 11 till 2 o'clock in the morning before we left off. In busy times it was oftener 12 and 1, and from that till 2 before we left off. In the last year I was with them, from April 1853 to April 1854, we were busy, as well as I can remember, through the spring and through the summer, for six or eight months of the year; that is, we went to work from 6 to half-past, sometimes at 4, and left off from 10 to 12, 1, or 2 in the morning, and sometimes after that time. Then we might have a slack time, when we should make seven or eight hours per day; that might last six or eight weeks; we never were slack very long. All the people in the works averaged these numbers of hours, some even more, such as some in the finishing department.

83. Out of the above 400 people in Messrs. Ainsworth's employ there are about 80 females and about 50 boys, all of whom have to work equally with the men. The females are from 12 to 26 and 27; the boys are from about 12 to 20. I have pitied them many a score of times. I have seen them many a time lay them down on tables and sleep instead of taking something to eat. They look tired, very much so; and during the busy time they often say they wish they had done, and got some sleep. I have had often, almost every day, to take a board and beat it upon the table to waken them, as they were slumbering at their work. At that time they would be hooking cloth; and while they should be doing it, I see them nodding, and trying to catch the hook. I have two sons and two daughters. One of them was obliged to be taken away from the work because it affected her so that she could not stand at her work; it produced swelling in the legs. Previously to taking her away I had her at home sick about 13 weeks. I know that many parents would not let their children work at bleach-works, if they could get anything else for them to do, on account of the length of time they work. Many a hundred times I have wished for a law to shorten the hours, and put the bleach-works under the same regulations as the factories; and it is my firm opinion it would be better both for men and masters. It would be better for the master in this respect, because his machinery would be always running for the whole of his hands. Now it may be sometimes running for only a fourth of the hands; for in a slack time some work comes in, and then it goes through the bleachers, and the machinery runs for them only; after that, when they have done and are idle, the machinery has to go on for the finishers. In large works, such as Mr. Ainsworth's and others, if this Bill were to pass, limiting the hours to 10, they would get through the same quantity of work in the year that they do now, because at present some of their hands are generally slacker than the others, and might assist those that are busy, which would cause the whole to be got through in proper time.

84. At times, if a sudden order has come, we have not been in bed more than 16 or 18 hours in the week. Such large shipping orders could not be got through if the hours were restricted, in the same time, without either employing more hands, or leaving off some work for their regular customers in the home market. More hands could not be employed without their adding to their machinery.

85. With regard to the shipping orders, what one bleacher could not do, if a sudden order came, another could. There are bleach-works in England quite enough to bleach all the goods that could be wanted if the hours were brought down to 10, and the system properly regulated among them. The master bleachers meet every week or every month, at Manchester; and it will be very simple for one master to say to another, "I have got an order for more than I can do; will you take one lot of it?" Another time this same master who took a part of the order would in return make the same kind of offer, when he had more than he could do.*

86. This "shipping order question" was made one of the great difficulties and objections when the Factory Act was proposed. It used to be said that it would not be possible to execute the shipping orders in time. The difficulty has been met very well, because the work has been more regular; there is less slack time. The qualities of bleaching and finishing are well known beforehand for the different foreign markets, and any one kind of order could be executed at once.

87. Many bleach-works, that work the longest hours, have little or nothing to do with shipping orders.

88. All the workmen are certain of this, that the quality of the article would be improved

* This is a misapprehension.

by not being "pushed" through the different processes; and this, we think, would be to the advantage of the trade generally; the cloth would be better, and would look better, and that would be very likely to increase the trade.

89. I can read and write, and so can all my children; there is no better place in the trade for education than Mr. Ainsworth's. No boy or girl is admitted to the works, unless they can read the Testament, and repeat the Church Catechism. One school, called the Jubilee School, was built in the Jubilee year 1809; the other was built in 1847. Mr. J. H. Ainsworth, the present proprietor of the works, built a church about 14 years since, and another in 1847; both are very handsome and complete churches, and were also endowed by Mr. Ainsworth. Several of the other master bleachers in Bolton and its neighbourhood have assisted in building schools and churches. There are night-schools at Mr. Ainsworth's, but the young people cannot go there in any number on account of the late hours.

90. Dr. GARSTANG.—I have been in medical practice at Bolton 13 years, and from time to time I have been in the habit of attending some of the families of the persons working in the bleach-works. I signed the petition to Parliament, of the operative bleachers, a few months ago: and my decided opinion is, that working such long hours as they generally do, is exceedingly prejudical to them, both in a physical and moral point of view. I am acquainted with two young men, whose family I attend, who have been working, for the last six or eight months continuously, 16 hours a day. One of them looks very emaciated, the other is somewhat stronger.

91. Generally speaking, the bleachers are a healthy class, and are subject to no particular form of disease; but I am quite of the opinion that none but those of strong constitutional powers could sustain such long hours without injury to health.

92. With regard to accidents, I am one of the honorary surgeons to the Infirmary here, and I think that comparatively few cases of accidents are sent in from the bleach-works.

93. I am aware that there is a reluctance on the part of many men employed at the bleach-works of this neighbourhood, to come forward and give evidence upon this inquiry. From the opportunities I have of knowing their feelings and opinions, in the course of my professional occupation in their families, I am aware that they entertain an idea that, if they were to do so, they would be liable to dismissal. And I can state, that a very general wish prevails among them, that legislation should take place with regard to the long hours of labour.

94. Mr. J. M. ROBINSON, surgeon, Bolton.—I have been in practice in Bolton upwards of 30 years, and have had frequent opportunities of being acquainted with the workers in the bleach-works, and their families. I signed the petition to Parliament in favour of this bill. I am decidedly of opinion that a limitation of the hours of labour is very much to be desired for the females and boys employed in them, inasmuch as many injurious consequences, both physical and moral, arise to both, from their long hours of work. I think, also, that it would be both satisfactory and beneficial to the men, as the legislation for the factories has been. I do not conceive that it would be injurious to the masters.

95. I have been Medical Inspector of Factories upwards of seven years, and can bear my testimony to the good effects that have been produced to the population from that act.

96. The employment at bleach-works is not in itself an employment obnoxious to health, but the effect of the long hours in the bleach-works is, that it has a tendency to develop any latent or hereditary cause of disease. The adults are generally a healthy class of men, but it is obvious that none but persons of strong constitutions can long stand those hours. Since the introduction of machinery in the bleaching process, which has been going on for some years, the bleachers are no longer so clearly distinguished from the other classes as they used to be in point of strength and vigour. They are now more under cover.

97. My impression is, that the number of accidents in bleach-works is comparatively small.

98. WM. BARLOW, finisher in Mr. Edward Hollins's works, Tootle Bridge, near Bolton.—Our works have been averaging 15 hours a day for four months (Saturdays excepted, the hours of stopping on which day have been from 4 p.m. till 7 p.m.), beginning at 6 in the morning. Before that time, for several months, we were in a constantly fluctuating condition; working some days 10 hours for three or four days to a week together, and then from 15 to 17 for three or four days or a week. This state of things represents the general condition of the whole trade; so that we have, in point of fact, been working from 15 to 17 hours a day for eight months in the year, counting all the days of such overwork. The hours of rest for meals are two in the day.

99. One of the great drawbacks attending the irregularity and long hours in our works is that we cannot reckon on our time, and make any appointment for any purpose, such as attending our Mechanics' Institute and lectures, or any other mode of improvement.

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100. "To the Honourable the Commons of Great Britain and Ireland, the humble Petition of the undersigned Clergymen, and members of the Medical Profession of the Borough of Bolton, in the County of Lancaster,

"Sheweth,

101. "That your Petitioners have long known with regret, that it is customary, in the several Bleaching, Finishing, and Dyeing Establishments in the United Kingdom, for

females and young persons to labour for 14, 16, 18, and 20 hours a day, and frequently for days and nights consecutively, without intermission, except for meals.

102. "That such a system is attended by most injurious consequences to those unhappily subjected to it, as, in addition to the unwholesome atmosphere pervading such establishments, they are virtually prohibited from being brought within the circle of those influences which give a healthy tone to the intellectual nature of man.

103. "That your Petitioners understand that a Bill is intended to be brought before your Honourable House, to restrict the labour of females and young persons employed in Bleaching, Finishing, and Dyeing Establishments, to 10 hours per day.

104. "That your Petitioners are justified by their own experience in declaring, that such a measure would be a wise and beneficial one, and has long been highly necessary.

105. "Your Petitioners, therefore, pray that, when such Bill comes before your Honourable House, you will be pleased to pass it into a law.

"And your Petitioners, as in duty bound, will ever pray."

106. Names of Ministers of the Gospel, and gentlemen of the Medical Profession, who signed the Petition to Parliament, and the Memorial to Viscount Palmerston:—

Rev. H. Jones, St. George's-place.
Rev. Mr. Chamberland, Fold's-road.
Rev. F. Baker, Unitarian minister.
Rev. Mr. Pagan, B.A., Darcy-lever.
Rev. Mr. Carter, priest, Bolton moor.
Rev. Mr. Smith, priest, Little Bolton.
Rev. H. Frazer, Asley-bridge.
Rev. Mr. Richardson, Church-bank.
Rev. Mr. Smith, St. George's-road.
Rev. Nev. Jones, incumbent, St. George's.
Rev. Mr. Davidson, Charley-road.
Rev. R. Best, Chorley-road.
Rev. Lawes Porter, Breightmet.
Rev. Mr. Kelk.
Rev. A. P. Kemp.
Rev. Mr. Hartley.
Rev. Mr. Trench.
Rev. Mr. Osburn.
Rev. Mr. Turnick.
Rev. Mr. Taylor.
Rev. Mr. Turton.
Rev. A. S. Pemberton.

Dr. Cawthorn, M.D., Fold's-road.
Dr. Black, R.N., Tongwith Haulgh.
Dr. Goodwin, Halliwell.
Dr. Dorrian, Blackburn-street.
Dr. Garstang, Bark-street.
Dr. Whostenholme, Bridge-street.
Dr. Rothwell, Bank-house.
Dr. Robinson, surgeon, Bank-house.
Dr. Chadwick, Bridgman-street.
Dr. John Livy, St. George's-place.
Dr. Haddock, Wood-street.
Dr. Hatton, Bradshaw-gate.
Dr. Pendlebury, Bridge-street.
Dr. Carruthers, Church Bank.

107. See also the names of the Clergy and members of the Medical Profession of Manchester and Salford, who signed a similar Petition to Parliament, which has been recently forwarded for presentation. Appendix B.

108. Mr. WILLIAM JONES, Sub-inspector of Factories.—I have held my present office nine years, and have resided in Bolton during the whole of that time. In the course of my duties, I have had occasion to see a great deal of the persons working in the bleaching-works. I have no doubt that the length of time they often work continuously at that branch of labour, is very injurious to them both physically and morally. Instances of both have frequently come to my knowledge.

109. I inspect the print-works. A considerable number of print-works have bleaching-works attached to them, often within the same or adjoining premises. I therefore frequently see those who work at the latter. Indeed, the proximity of the bleaching-works to the print-works enables a master of print-works, if so disposed, to evade, to a great extent, the inspector; as it enables him to remove suddenly the children and young persons from the print-works to the bleach-works, when the inspector is known to be in the way. My impresion is, that the machinery of the bleaching-works, although not so dangerous as that of the factories, is probably sufficiently so to justify a law requiring all the dangerous portions of it to be fenced. When accidents do occur from the machinery of the bleaching-works, they aresometimes very serious, as the machinery is large. Persons, when caught, are apt to be drawn into it, and loss of life is the consequence. Accidents of a minor nature also occur; though neither the one nor the other are likely to be as numerous as they were in factories before the machinery was fenced off.

110. There can be no doubt as to the improvement of the factory population that has taken place in consequence of the hours of labour being reduced. It is now, I believe, almost universally admitted.

111. Mr. JOHN H. AINSWORTH.—I am proprietor of the Halliwell bleach-works near Bolton. I have been engaged in the business of bleaching, &c. for 33 years; and for the last 26 years have been Chairman of the Bleachers' Association for this neighbourhood, and that of Manchester, which form the principal locality of the bleaching trade, not only of Lancashire but of England.

112. I am ready to admit that the hours of work have, at times, been too long for females and boys; but if we must have a short-time Bill, it is absolutely necessary for us,

considering the nature of our business, that we should have very great latitude with regard to the hours within which we may be allowed to employ them. My opinion is that that latitude ought to extend from 6 a.m. to 10 p.m. The reason for this is that the work fluctuates, and, owing to the great division of the labour, and the numerous sets, one set has often to wait until the work has passed through the hands of the preceding set.

113. For instance, suppose a quantity of cloth, from Manchester, to be unloaded at 6 o'clock in the morning, it will take some time to assort it; the markers cannot begin till that is done, and the dressers cannot begin until the cloth has been marked.

114. Again, the manglers cannot begin in the morning until the cloth has been sent up by the bleachers, and that may be as late as 7 or 8 o'clock.

115. The manglers cannot get the cloth ready for the dampers till probably 9 or 10 o'clock.

116. These instances will frequently occur.

117. The females, in the making-up department of my works, now work generally from seven to ten when busy, and are extremely healthy, as is evidenced by the sick society. They stop half-an-hour at breakfast, an hour at dinner, and half-an-hour for tea.

118. Supposing a Bill to pass, limiting the working hours for women and children to 10½ a day, I am strongly of opinion, that it would be highly inconvenient to our proceedings to specify the hours to be between 6 and 6, including meal-times; because, as I have explained above, the work might be ready in one department and not in another, so that it would frequently amount to a greater limitation of hours in some departments. Our work is unlike that of the factories, which admits of every set beginning and ending at the same moment all the year, and every day in the week. If such a limitation as 12 hours a-day is to be forced upon us by Act of Parliament, we should be allowed some discretion as to the mode of reckoning those hours; for instance, if we found it necessary to employ a woman or child from 9 till 9, or from 10 till 10, such employment should be allowed. But this would necessarily nullify one of the objects of the operatives who wish for a short-time Bill, namely, that relating to the late hours at which females return to their homes.

119. Supposing the Bill proposed last session to become law, the probability is, that we should dispense, as much as possible, with the labour of women, chiefly in the making-up department, where they are now much used; and for boys under 18 the tendency would be the same. The women who would remain, instead of earning about 12*s.*, would find their earnings considerably reduced; somewhat in the ratio of the reduction of the number of hours.

120. It is said by the advocates of the Bill that the fluctuations in the supply of work to the bleachers could be prevented by the merchants of Manchester sending their goods out more regularly. This is erroneous. The houses in Manchester who send us their goods to bleach, &c., are, for the most part, commission agents, who are limited to executing the orders they receive from their correspondents, or from their other customers. They have no control over the quantity or the mode of finishing, and frequently a very limited control over the time they can allow us.

121. One of the witnesses states, that the masters are in the habit, when men leave their service, of giving them what is called a "quittance paper," marked in a particular way, and that in such cases a man will not be able to get employment elsewhere. In answer to this, I may say that I never employed a secret mark, or recollect having seen one, nor have I known that such existed among the members of the association.

122. However objectionable the long hours may be thought for the women and children, experience proves the bleach-works are preferred to factories, both by parents and children. I believe the reasons are, that they can earn more money in the bleach-works, and that the employment is more healthy; the temperature in factories being about 80 degrees, whereas in the bleach-works a very small number of those employed, namely, the clampers and stovers, are required to work in a high temperature.

123. The workmen are in error in saying, that if in consequence of the operation of a short-time Act, one master could not get through all the work sent to him, he might send some of it to another. This might be the case with the bleaching alone, but it is incorrect with regard to the finishing. There are various finishes, for which different masters are well known in the trade, and for which there is a special demand. One master, in many cases, cannot execute the finish of another; neither would the merchant be content that his goods should be transferred from one bleacher to another.

124. It has been asserted in the evidence of the men that cloth rapidly bleached is apt to be spoiled. This will only be the case where the workmen are careless, or from some bad management. But, even if this were so, it would be no argument for a short-time Bill, because the bleaching would be done by adult male labour, if necessary; and under any circumstances the same amount of bleaching would be got through, when required, in the same time as at present. The same amount of finishing would also be got through, but it would be by adult males; and therefore inconvenient and more expensive.

125. If we were to be driven to the employment of adult males alone, another inconvenience and injury to the trade would arise from the difficulty of training up skilled work

men. The trade of a bleacher is very arduous and troublesome, as the operations are various, and require great attention and judgment; which can only be acquired from long practice and experience, beginning at an early age.

126. There is a great distinction between our case and that of the factories. In the latter, the work depends very much upon machinery, and each set of workmen has the same thing to do over and over again with great sameness and regularity. Ours is a trade where manual labour is predominant, and where a great deal must necessarily depend upon the individual skill and good behaviour of the workmen; and consequently more attention is required on the part of the manager to keep the men properly at their work. Well trained and skilled labour is a matter of the first importance to us.

127. Supposing such a latitude as I have above adverted to, be allowed to us, namely, from 6 to 10; but with the restriction of not being able to employ females or boys more than $10\frac{1}{2}$ working hours a day, or between 6 and 6; we should be driven to a system of relays in the principal departments of our work, if we did not adopt the other alternative, which I have already mentioned, of dispensing with the labour of females and boys nearly altogether.

128. There is a portion of our work called the clamping (or drying the cloth stretched on laths), in which a high temperature is required. In this work we employ no females or boys, but only men. When we are busy these men work in relays. The first set works from 6 to 10. The other from 2 p.m. to 6 a.m.; and thus are enabled to prepare work for the makers-up, who come in the morning. This shows the manner in which work is prepared, to enable the female workers to begin work at 7 in the morning. These are the only persons employed in our works by relays.

129. Those men who work in this manner earn two days' wages or more in the time specified. Although the hours are long, they have frequent intervals of rest, while the cloth is drying, and can sit or lie down as they please; they frequently read books from the libraries attached to two out of the three schools in the neighbourhood, and also the newspapers, during these intervals of rest. These intervals occur also occasionally in nearly all the other departments, and are often so employed.

130. In all our departments the sets make, when busy, two days' wages in one; at other times a day's and a half, and seldom less than a day's.

131. Our people are able to make one day's wages in eight hours of steady work, some of them in less.

132. All the persons employed here have the means of ascertaining exactly at the end of the month whether they have been paid for the exact number of pieces done; an arrangement which appears to give great satisfaction.

133. Mr. STANNING, Manager for Mr. J. H. Ainsworth's Halliwell Bleach-Works.—Our orders come to us from the merchants at Manchester. It often happens that a merchant receives orders from abroad, to ship by such a vessel or omit altogether. We have had several cases of this kind in the last few weeks, on account of the state of the American markets. This happens in all states of the market.

134. I am quite of opinion, that, if a short-time Bill were to pass, those females whom we might retain would find their wages reduced in the ratio of the reduction of the number of hours; and many would be dismissed altogether.

135. As regards the quittance paper spoken of by the men, I never heard of any such practice.

136. I have no doubt that, as a rule, bleach-works are preferred by the work people to other occupations; and that should it be requisite at any time, we should have no difficulty in increasing our hands. This remark applies to our present condition; but if we were limited by a short-time Act to 12 hours (i. e. $10\frac{1}{2}$ working hours) per day, and were consequently obliged to employ a greater number of hands, at times when we have a great deal of work to do, we should not be able to keep these hands employed when work was slack; we should be obliged to dismiss them.

137. For the last three months, in one part of our works called Prospect, we have been busy, and the people have begun at 7 and left off at 9, 10, or 11, as they thought proper.

138. The girls in the calender place (three), in the cambric making-up room (10), and the jaconet making-up room (eight), work the same or nearly the same number of hours as above.

139. The boys in the machine bleaching place (six) do not average $10\frac{1}{2}$ hours the year round. They do not work nine hours a day. Those in the mangling place (four), and the jaconet room (two), work the same hours as the females.

140. July, August, and September are quiet months with us; and generally speaking, October, November, and December, if the trade is good, are busy months; January, February, and March, are also busy months, when trade is in a good state. It begins to fall off in April, May, and June; in each of those months we begin to do a little less. We are sometimes very quiet in July, August, and September. This applies to our muslin and dyeing departments. In the other portions of our works, strong goods and shirtings are bleached and finished. They are not in my department.

141. If a Bill were to pass restricting the hours of labour for boys and females, I should at once recommend that those boys and girls in the departments that would be interfered with should be discharged, and their places supplied by adult males. Those whom I

should recommend to be dispensed with would be, eight females in the calender place, 10 in the cambric making-up room, and eight in the jaconet making-up room, 13 in the making-up room of another work, in all 34; leaving 33 whom we could keep on.

142. We should also probably dismiss six boys; two from the jaconet making-up room, and four from the mangle place; leaving 28 whom we should be able to get on with, though their hours were reduced.

143. I have known these works 38 years, and have been manager of them about 20 years. During that time I am not aware that any injury has occurred to the health of any of the females or boys employed, in consequence of the occasional long working hours. We have no females employed in the pulling-up and doubling, except occasionally in the hooking of the calicos and shirtings. We employ lads for that.

144. Mr. MORRIS, manager of Mr. Ainsworth's bleaching-works of Mill and Temple, Halliwell.—I am the manager of Mr. Ainsworth's Mill and Temple works, employing about 100 hands altogether. It is bleaching and finishing strong goods at the Mill, and shirtings at the Temple. Supposing an Act to pass limiting the hours of labour for females and boys, it would be inconvenient to us in some departments. In the finishing place at the Mill we should either dismiss the three females and substitute adult males, or get another hand to assist them. In the packing-room we should have to employ another female hand in addition to the one now there.

145. In order to keep on the three hands in the dressing-place, we should have to employ two extra hands in the stitching. With respect to the boy employed there, if he gave over at 6, we should be obliged to send him off and employ an adult.

146. In the bleaching-place we should dismiss the four boys, and get four of 18 and upwards in their place.

147. In the mangling-place we should have to get an extra hand in addition to the two women, and we should dispense with the three boys and get men.

148. In the stove we should have to get men instead of the three boys there.

149. In the packing-room we should dismiss the two females and three boys, and substitute men.

150. Out of 10 females in the works that I manage, we should probably dismiss six; and as to the 15 boys, we should probably dismiss the whole of them.

151. If adult males were to be substituted for females and boys, the additional cost would be something considerable. I do not see at present that this could be met by improvements in our methods, or by increasing the speed of our machinery. An improvement has been introduced into the mode of washing, which has become pretty general.

152. Mr. Ainsworth's works are principally engaged in working for the foreign market.

153. I have been employed at these works 37 years. During that time I am not aware of having known any instance in my department of either females or boys having been injured in their health by the occasional long hours of work.

154. If an Act were to pass restricting the hours, but allowing us a latitude, as, for instance, between 6 and 10, coupled with a restriction of not making more than 80 working hours in the week (i.e. 14 working for five days, and 10 on Saturday), I think that our females and boys could work those hours without the least injury to their health. My reason for thinking so is this: For four or five months in the year, in consequence of the fluctuations of trade, they would not be working more than six or eight hours a day; and even if they were on the premises from 6 to 10, they would not be working continuously during that time. Besides their two hours for meals, they would be stopping from time to time waiting for work to come to them from other sets. This applies to all the females and boys employed.

155. I am of opinion that a restriction of the hours of labour for females and boys would occasion us so much difficulty, that we should get rid of them as much as possible.

156. [I then took the following evidence of persons whom I found at work in different rooms in Mr. Ainsworth's works. I read it over to Mr. Ainsworth on the spot. I pursued this course with all the evidence I took at all the works I visited; reading it over to the principal person present, either the owner of the works, or the manager, or the foreman of the department if the former did not happen to be present.]

157. ELLEN SMITH (hooker).—I am 18 years of age. I have been working here going on five years. I have generally made a day and a half's work; that is, beginning at 7 and giving over at 11. I have been agate this way two or three months together; I am always very tired at the end of the day, my feet ache and the skin comes off. My feet have been so sore in the evening, that I could scarcely walk when I came in the morning. I generally wash them, and put soap on them to make them better. I would rather work a day than a day and a half, if the law was to be passed; I should prefer it, though I only got a day's wage. My father works in the stove.

158. MARY SMITH (hooker).—I am sister to Ellen Smith; I am going on 16. I have been at work here going on three years. I have generally worked from 7 to 11; we never stop long, except at meal times; we have half an hour at breakfast, an hour at dinner, and half an hour at tea. I go home to all my meals; I live close by. Sometimes I am very tired at the end of the day. Sometimes my feet ache; it sometimes

keeps me awake at night the skin is never off; I have never been sick since I came to work; it would be better for us if we only got a day's wage instead of a day and a half.

159. MARY ASHCROFT (hooker.)—I am going on 16. I have worked here going for three years. I have worked generally at hooking from 7 till 11. Sometimes I am very tired, when we have worked very hard; the skin was off all my toes last week; it has been so many times before. My feet ache at night, and I always fall asleep, because I am so tired. When I wake in the morning my feet smart so I can hardly abide sometimes; I wash them and put soap on them. My father is the watchman at Prospect. I should like very well for a law to be passed saying that the girls should not work more than 10½ hours a day; I would rather lose the half day's wage.

160. MARY PENDLEBURY.—I am head maker-up in this room. I have eight girls under me; I was 14 years old when I came to this work, hooking and making up, and I am now 25 next April. I have been head maker-up about three years. When I first began hooking my feet used to be sore, when we were very busy and kept long hours. We used often to be very busy; for the first two or three years my feet used to be very sore, and the skin used to come off. I was at the hooking till I was 19 years old. We used then to "make up" from 7 till 12 or half-past 11; the hours are now generally from 7 till 10 and 11. I generally make a day and a half's wage per day the week through, sometimes double, that is 48 days in the month. I have been off from sickness, in consequence of those long hours, two or three times. I was off a fortnight and a week. The girls' feet when they are bad are hot. If a girl was to work as hard as she could for 10½ hours, I do not think she would get foot-sore, because she would have a good night's rest. If the Parliament was to pass a law for the girls to begin at 6 and give over at 6, I should like it, though I should only earn a day's wage instead of a day and a half or two days. I feel tired now when I go home from my work, bending my back all day over my work, folding up the pieces. All the girls say they would like to give over at 6 and start at 6. All the girls here are healthy now, and have been for a long time.

161. MARIA ASHWORTH.—I was 15 the 16th of October. I have been working at hooking two years and six months. I was before stitching tucks. Since I have been agate with the hooking, the hours I have made have been sometimes from 7 till 11, sometimes from 7 till 10; 7 to 10 have been oftenest, not much. When 10 or 11 o'clock comes I feel very tired; my feet are quite well at present, but they have been very bad. They have been bad 60 or 70 days at different times during those two years and a half. Sometimes the skin was off, sometimes they were bad from pain. They feel better in the morning. When the skin was off I soaped them a little. My father is a millwright in Mr. Ainsworth's employment. I should like very well a law to be passed to prevent the girls working more than 10½ hours a day. If I only made one day's wage instead of a day and a half, I should not mind. Out of the 60 or 70 days I was off work, I was off a month from scarlet fever. Another time I was off three days from a gathering in my foot, from the heel being rubbed. The skin has been off my feet not so very often. I have come to my work four or five times when the skin has been off my feet. I believe the skin was off my feet, not because my clogs did not fit me, but because of the long time I was working and standing about.

162. JANE SWAGLES.—I am in my 20th year. I am a hooker; I have been at this work three or four years; the hours have been generally from 7 till 10, and sometimes 11, resting two hours for meals. I have no rest except at those times; we sometimes take a little longer than the regular times for meals. I have never been sick from the work; I have had bad feet, and I have to wear shoes for it; my feet were hot, and the skin came off. They used to ache; they have not ached or been sore since I began to wear shoes instead of clogs. Nearly all the girls wear clogs. I feel tired after these hours; when I work later I feel more tired; my feet sometimes ache in the morning when I put them down, but they soon give over when I begin to walk. I think if all the girls wore shoes their feet would not ache; I can speak for myself. I should like to have the ten hours Bill, though I should only be able to earn a day's wage instead of a day and a half or two. I think the girls all say so. I worked four or five years at a cotton mill; my feet used to be sore at the cotton-mill. I like working at bleach-works better than the factory, even with their long hours, because it is cleaner work and not so much noise.

163. MARY ANN ASHWORTH.—I have been a maker-up 25 years. There have been generally 10 girls here; I think they have been generally healthy; all are very well at present. Our hours have been generally from 7 to 9 or 10 or 11, and sometimes 12. The young ones between 13 and 14 or 15 suffer from their feet and their legs aching; then they get over it, and become healthy and strong.

164. HANNAH SMITH.—I am 19; I have been working here 5 or 6 years. The hours have been generally from 6 to half-past 9 or 10. My employment is packing cloth; I am generally upon my legs a good deal. I have only been off work one day since I came; I have never had bad feet, but they have ached when we have had to work hard; they burn and ache

so as to keep me awake; sometimes they have felt numb in the morning. I should like very well for a law to be passed to prevent the girls working more than 10½ hours a day. and would rather have it though I should only earn a day's wage instead of a day and a half. Many a time I have heard the girls wish for this.

165. [ANN CROSS agreed in the above, and gave similar evidence].

166. FANNY SLATER.—I am nearly 15. I have worked here three years; before that I worked in the mill. I have never been off work here or had any pains in my feet. The hours have been from 6 to ½ past 9 and 10 o'clock. I would rather work the same hours as in the mill, though I only earned a day's wage instead of a day and a-half; I prefer this work to the mill, it is pleasanter work.

167. ISABELLA MAYOH.—I am going on 16. I have been at work here five years last September. I pull up cambric pieces; I begin at 7 and stop mostly between 9 and 10,—it is oftener 10 o'clock. I have been off work twice with bad eyes, once three weeks; never before above a day or half a day; my feet ache sometimes, but they are not very sore. My father is a stover. I cannot sit down and rest during the hours of work. I am on my legs all the time while the work is going on; and sometimes we are a day without sitting down, except at meal times. I feel very tired at the end of the day. I have to go home a mile and a half. I should like the short hours very well if it was to be the law. My eyes were made sore from being such long hours close to the gas.

168. A. B.*—I have been head maker-up about 20 years. For my part I do not wish the hours to be shortened; some of the girls do, they would like it. I am very strong, and in very good health.

169. Females and boys employed at Messrs. Ainsworth, Son, and Co., Bleach-Works, Halliwell, Bolton:—

		Women and Girls.	Boys under 18 years.
	Dressing Place	-	15
	Cloth House, Markers	16	
	Room in the west end of Albert Stove	2	
Capitol,	Making-up Pasters room at the south end of Clamp-place / Making-up room	13	
Ditto	Roll Packing-room	-	2
Ditto	Mangle place	2	4
Brow,	Dressing place, Grey rooms	8	3
Prospect,	Machine bleaching place	-	6
Ditto	Mangle place	5	4
Ditto	Calender place	3	
Ditto	Cambric Making-up room	10	
Ditto	Jaconet Making-up room	8	2
Ditto	Beetling place	-	1
Mill,	Finishing place	2	1
Ditto	Packing-room	1	
Temple,	Dressing place	3	1
Ditto	Bleaching place	-	4
Ditto	Mangle place	2	3
Ditto	Stove	-	3
Ditto	Packing-room	2	3
	Boys under 18 years of age	-	52
	Women and girls	77	77
	Total	-	129

170. No women working in hot places.

171. The three boys in the stove in the Temple are only in for short periods together, while the cloth is being hung.

* I omitted at the moment to put down this name.

NUMBER of HANDS employed by each Bleacher in the Neighbourhoods of BOLTON, BURY, and MANCHESTER, 8th July 1854.*

	Boys under 10 years of age.	Girls under 10 years of age.	Boys under 18 years of age.	Total Number of Females.	Total Number.	Remarks.
†R. Ainsworth, Son, and Co.	–	–	52	77	508	
Thomas Ridgway and Co.	–	2	110	57	461	
†J. and H. Bleackley	–	–	30	37	198	
Richard Sykes and Co.	–	–	24	26	204	
J. Marsden and Co.	1	–	16	9	73	
Thomas G. Horridge	–	–	16	26	121	
†Jonathan Pendlebury and Son	–	–	31	41	200	
Edward Hollins and Co.	–	–	16	16	120	
John Smith, Junr., and Co.	–	–	19	32	165	
Thomas Holmes	–	–	14	20	86	
Ridgway Bridson, Son, and Co., Bolton	–	–	23	98	234	
Ditto ditto, Lever Bank	–	–	25	46	154	
Blair and Sumner, Mill-hill, Bolton	–	–	41	44	156	
Thomas Appleton and Co.	–	–	26	49	234	
†Thomas Cross and Co.	–	–	35	41	173	
Chambers and Livesey	–	–	19	23	71	
Barlow, Warburton, and Co.	–	–	30	24*	150	
†Thomas Hardcastle and Son, Fir Wood.	–	–	40	33	440	
James Hardcastle and Co., Bradshaw Hall.	–	–	38	23	280	
George and James Slater	–	–	24	22	135	
Rule and Davies	–	–	17	23	100	
†Exors. of James Fletcher	–	–	–	–	164	Particulars not received.
William Makant	–	–	12	14	58	
†Roger Taylor	–	–	4	4*	50	
Eden and Thwaites	3	–	39	34	167	
John Slater and Co.	5	–	29	16*	142	
Hugh Roberts and Co.	–	2	11	9*	80	
Richard Bealey and Co., Radcliffe, Manchester, Bury-road.	–	1	42	40	250	
Charles Whowell	–	2	19	56	125	
†John Seddon	1	1	14	43	121	
Henry Marsland	1	–	–	–	110	Particulars not received.
Mortimer L. Tait	3	–	38	38	201	
William Longworth & Co., Springfield	–	–	12	5*	90	Total number not received, but suppose.
Wm. Longworth and Co., Horwich	–	–	10	20	72	
Robert Heyworth and Co., suppose	–	–	–	–	90	No return.
	14	8	876	1046	5980	
Females and Boys not returned, suppose			70	184		
			946	1230		

* Under 18 years. † Bleachers of fine or fancy goods.

172. Mr. JAMES HARDCASTLE, proprietor of the Fir Wood Bleach-Works, Bolton.—I have been engaged in the bleaching and finishing business nearly 40 years. When I first remember it, the hands used to work long hours much more frequently than they do now. I have known at that time, that they have worked for a week with very little intermission, getting a few hours' sleep occasionally as they could. Since the inquiry in 1843–4, the hours of working have been much diminished. I very much object to legislative interference in matters of this kind. I think that the gradual amelioration which has already taken place in the hours of work, in favour of the work-people, will continue ; and that the tendency of things will be, that the masters will of themselves do all they can to correct it. My own work-people do not appear to suffer from the long hours; they are (as a rule) very healthy and strong, and the men appear always ready to undertake work as it comes in, although it may occasionally oblige them to work very long hours. This practice of working long hours from time to time, is not a matter within our own control. We are dependent on the merchants and manufacturers, upon whose goods we operate, and whose

* This statement was furnished to me by Mr Ainsworth. I presume it was only intended to be an approximate statement, as it is not complete; the omissions being chiefly of works near Manchester, I was unable to obtain any complete list.

orders frequently tie us to a specified time of delivery. On an accumulation of such orders our people are then obliged to work 12, 14, or 16 hours a day, until such orders are executed. They will then probably have a period of shorter hours for some days, more or less, according to the state of business. While the men are at work, the females and boys must also to a great extent be so too. They may, in the different departments, have occasionally a little resting-time besides their hours of meals, while waiting until the cloth has gone through a previous process or operation. These operations vary, according to finish and fold, and the like. These remarks apply chiefly to finishing.

173. I do not desire any legislative interference which will have the effect of hampering our trade in any way. From my experience, both as a printer and bleacher, I consider the Calico Printers' Act as undesirable and inapplicable.* The bleaching, dyeing, and finishing trade is not in such a state as to permit it to be placed under any legislative restrictions, without endangering most materially the prosperity of the cotton manufacture generally. From some markets we are even now excluded by foreign competition; there is so small a margin left to us against that competition in some countries, especially in particular branches, that we fear the effect of any legislative measures which may tend to hamper us in the prosecution of our trade, or add materially to the expense of production. I see great difficulties and objections to the raising of our prices.

174. I cannot say that I like to see such young girls at work as the four we saw to-day in the finishing department, about and under 13 years of age. I have no personal interest in employing them, neither do I wish any girl under 13 to be in my works. This is in reference solely to my own works as at present carried on. They are generally the daughters or relatives of some of our men. On the whole, the females in our employ are, as you will have observed, strong and healthy looking. Two of those four whom you remarked as having a different appearance ought not to have been here; their parents ought to have put them to the branches of labour better suited to them. The females and boys are, as regards their earnings, in companies with the men, and receive their proportion of payment according to a scale which I established more than 20 years ago. My attention had not before been particularly directed to those four young girls of the age of 13 and under, or to those four who said to you they had been sometimes ill in consequence of the long hours of work. The number of females throughout the works is thirty-six; and with the exception of the six or eight before mentioned, they are in robust health.† With regard to those six or eight, I should very much wish to remedy such a state of things, if I could see how to do so without material risks to the trade generally. The question is surrounded with difficulties; we are not like the factory people, whose work can be reduced to regularity; the nature of our processes prevents this, as also the unavoidable irregularity of the demand for our labour by the manufacturers and merchants.

175. I have considered whether it would be possible for us to adopt a system of relays with our females, but do not see how to effect this, and have abandoned the idea as being altogether impracticable. The difficulty of a system of relays is inherent in the nature of the work, and which can only be comprehended by those who have been long engaged in its supervision. I might have raised the rate of earnings to the girls and young women without any cost to myself, but thought it undesirable to alter a regulation which we have been acting upon for so many years. The additional rate would have been paid out of the general earnings of the set.

176. If, in consequence of being restricted by Act of Parliament to the same hours as the factories, we should substitute adult labour for that of boys and females, we should lose the means of training up a succession of skilled labourers.

177. Although I object to legislation, I should be glad indeed to see that no children under 11 are employed at all in the trades of bleaching, dyeing, and finishing, and that no females under 18 should be employed otherwise than in the day, namely, between half-past 5 in the morning and half-past 8 at night, or should work more than 60 hours in any one week within those daily hours. The Legislature, in the Acts for Regulating Labour, has, I believe, established the hours from half-past 5 in the morning to half-past 8 at night as constituting day time.‡

178. In the bleaching department the men divide themselves for work about as follows: The first lump or portion of work is entered upon at 5 o'clock, and at the fullest rate of labour their work is ended at about 2. The second will end at about 8 or 9. The night lump or portion will end about 4 in the morning. In periods of "push" they will all be employed in that manner. In slack periods we have no need of the whole of them, therefore a few may stay away, and seek a day's work, with a farmer, for instance. There is some arrangement among themselves with regard to this. In the bleaching, therefore, it may be said that we have a sort of elastic power at our command. This, as far as I am

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* The hours permitted by the Calico Printers' Works Act (from 6 a.m. to 10 p.m.) had been suggested by Mr. Ainsworth (p. 14.) as desirable for the bleach-works, if any legislation were thought necessary.

† That expression seemed to me rather too positive. They had the appearance of being so, with the few exceptions adverted to.

‡ This paragraph was copied, at the time it was written, by Mr. Hardcastle's direction, and addressed by him in my presence to Mr. Ainsworth, soliciting his opinion upon it. I believe Mr. Ainsworth did not approve of it.

aware, is not a general system in the trade, but one which I am able to avail myself of having the use of water power, which the men can set on and off themselves.

179. My opinion is, that this system is not applicable to the females and boys employed in the finishing department. I arrive at this conclusion from my experience of nearly 40 years in the trade.

180. All the finishers in the making-up room work together in one company, and divide the amount earned in the proportion of their rated wages.

181. If all the females in the works were adult women, it would cost me no more than at present.

182. I have no interest in employing young children, except that they may be in a course of training for the trade.

183. The elder would do the work better.

184. By way of showing the danger of hampering our business, I may mention that goods go from Manchester to Ireland to be dyed and finished; some go to Cork and thence to London; some to Belfast and back again to Manchester. This is a very increasing trade. The reason is, that water-power is abundant and cheap, and labour cheaper than here. The great bulk of this trade consists of cottons finished to imitate linen, both for the home and foreign markets.

185. The following is the analysis of the different descriptions of work-people employed in our works at Fir Wood :—

	Men.	Boys.	Females.
Unloaders	3	2	–
Banders	1	3	–
Dressers	4	8	–
Bleachers	46	2	–
Squeezers	1	2	–
Manglers	16	8	5
Stovers	14	9	–
Calico packers	7	3	5
Calenderers	11	–	5
Finishers and makers-up	10	7	13
Order office	6	–	–
Shirting packers	8	–	3
Beetlers	5	–	–
Chest manglers	3	–	–
Canroyers (damping cloth)	4	1	–
Dyers	71	3	–
Stitchers for ditto	–	–	4
Sweepers up	–	–	2
	170	61	37

186. Mr. RIDGWAY BRIDSON, proprietor of Bleach-Works, Bolton.—The following account of the hours worked by a girl in our employ, Mary Partington, aged 14, taken from our books, will illustrate the irregularity of the employment, and the number of hours sometimes worked. The period is from December 4, 1854, to the end of the month.

187. This was a good month, representing a fair average of the last six :—

	Nett hours of work.		Nett hours of work.		Nett hours of work.		Nett hours of work.
Dec. 4	7½	Dec. 11	11	Dec. 18	12	Dec. 26	13½
„ 5	10	„ 12	11	„ 19	12	„ 27	12½
„ 6	9	„ 13	13	„ 20	14	„ 28	12½
„ 7	10	„ 14	11	„ 21	12	„ 29	18½
„ 8	17	„ 15	12½	„ 22	14½	„ 30	9
„ 9	3	„ 16	11	„ 23	11		
	6)56½		6)69½		6)76		5)66
Average	9⅓	Average	11½	Average	12⅔	Average	13⅕

188. On the Fridays the makers-up are obliged to make longer hours, in consequence of the Saturday being a half holiday in Manchester, on which days we can only deliver early in the morning one box; the merchant will only receive on that day one box. The merchant refuses to receive any delivery after 1 o'clock on Saturday afternoon. The box delivered on the Saturday morning contains a day's work. We, therefore, deliver on

Saturday before 1 o'clock the same quantity that we deliver on any other day. On the other days in the week there are two or three deliveries, the total amounting simply to the one day's work.

189. The Monday morning's box is generally smaller than usual, because it is the result of the work of a fewer number of hours on the Saturday, the people working less after their long hours on the Friday.

190. In the week ending the 9th the same girl worked on an average only $9\frac{1}{3}$; but on the 8th (Friday) she worked 17 hours. We could not have distributed her work evenly over the whole week, because the probability is we had not the work to give her; the cloth had not been sent to us. The merchants now often send us cloth, giving us only two or three days to execute the order. We have just received some cloth to bleach on this day (Wednesday) which is to be returned to Manchester on Friday. If this had been a large order instead of a moderate one, our hands would have been obliged to work extra hours in order to execute it.

191. It sometimes happens that several orders come in on one day, all requiring to be executed by the same day, probably for some ship that is going to sail at a certain date. Our customers, therefore, all want their cloth ready by that day.

192. It appears by our books, that in December last we were doing work which represents a fair average of the year. In one week of December, our hands worked $12\frac{1}{2}$ hours per day. It may be assumed that this represents a week when we were full of orders, and that our hands ought not to do much more.

193. We worked those hours because the merchants, in Manchester, gave us no more time to execute their orders.

194. If this Bill were to pass, limiting us to $10\frac{1}{2}$ hours a day, it may be assumed that the Manchester merchants will not alter their mode of doing business, but will still put off, to the last moment, sending us their shipping orders. It may not rest with them, but may depend upon their foreign orders.

195. If this Bill were to pass, and we were to receive precisely similar orders to be executed within the same time, we should have to do in $10\frac{1}{2}$ hours what now takes us $12\frac{1}{2}$.

196. The question is, how is that to be effected?

197. The business of the trade consists of two main branches, the bleaching and the finishing, the latter including stiffening, drying, making-up, &c.

198. The bleaching and finishing of this county has reference chiefly to the grey cloth as it comes, in pieces of from 20 to 50 yards, from the merchant or manufacturer, some not weighing more than an ounce to the yard, and others weighing a pound.

199. The invoice price of these various pieces of cloth varies from 2*s.* 6*d.* to 10*s.* or 15*s.*

200. The cost of bleaching and finishing upon a piece worth 2*s.* 6*d.*, may be 4*d.*; upon a piece worth 10*s.*, may be 10*d.*; upon that costing 15*s.*, one shilling.

201. The cost price to the merchant will, therefore, be these sums together.

202. The expense of bleaching and finishing upon the first is, therefore, about 12 per cent.; of the second, 8 per cent.; of the last, about 7 per cent.

203. Supposing we were obliged, by this Bill, to get through $12\frac{1}{2}$ hours' work in $10\frac{1}{2}$, we could only do so by adding to our machinery and labour in the same ratio, i. e., about 16 per cent., of which, labour would constitute about one-third, and machinery about two-thirds.

204. Supposing, therefore, a person had now 100,000*l.* embarked in the trade, he would be obliged, if this Bill passed, to employ 116,000*l.*

205. At present we do not see our way to any improvements, either of our chemical processes or by increasing the rapidity of the machinery, by which we should be compensated in our returns for the additional outlay; at the same time, it would be rather too much to assert that our present processes are so perfect as to admit of no improvement.

206. My impression is, that, if we wished to continue to do the same amount of work, we should be obliged to embark the additional amount of capital at once, and to run the risk of its being profitable.

207. We have great doubt whether any rise in our prices, to meet this additional outlay, would be either possible or desirable.

208. It may not be desirable for two reasons. First, that it might indispose the merchant to send goods to be bleached at all. As it is, the returns show that only five per cent. of the plain cotton pieces exported are sent out in a bleached state. A rise in the price of bleaching might induce the merchant to send them out unbleached. They very often refuse, as it is, to have cloths bleached, because they have so small a margin against the foreigner in foreign markets. The second risk is, that an increase of price would give the foreign bleachers an advantage.

209. Thomas Holme (Messrs. Ridgway Bridson, Bleach and Dye-Works, Lever Bank, near Bolton).—I manage the mangling place. I have about 17 men under me in this place (mangling), and eight women and girls, and 10 boys. Our hours are, when we are busy, from 6 to 9 the very longest, not for a whole week together at any time, but for two or three days in the week. We are subject to be busy in all seasons, and have been for several years.

210. Two machines go night and day with one man, two boys, and three females to each; the night set come on at 7 p.m., and leave off at 6, but stop till between 7 and 8 to

assist while the others are getting their breakfasts; this has being going on so for a year or two. When the new machinery is ready, we shall not be obliged to work night and day. There is another machine in the finishing department which sometimes goes night and day; it takes two lads, one about 14 years, the other from 18 to 20.

211. JOSEPH SHARPLES.—I am in my 20th year. I have worked here eight or nine years. I think all the lads would be glad to have short hours; many a time they have to stop off work, they are poorly from being tired. I feel tired many times, but I dare not stop off; I would like the short time Bill, though I might earn less money, because we should have more time, and it would be better for us. I am pretty strong, but I think I should be stronger and better if we worked short hours.

212. HENRY PARTINGTON.—I am going on 19 years of age. I have worked here $3\frac{1}{2}$ years. We do not often work so very long hours, sometimes from 6 to 8 and 9. I believe the lads are all of one mind as to wishing to have short hours. For my part, I should like to have them, so that I might have a little bit of learning.

213. GEORGE HOUGH.—I am going on 14. I have worked here going on three years. "Is there any signs of the ten hours Bill being gotten?" "I am come to ask questions about "it. Do you wish to have it?" "Eh?" "Why?" "I should think myself a deal better off. "I should not be half as tired at night as I am now. I am many a time so tired of a "morning that I can scarce get up; my feet get the skin off many a time. I should "like very well if we could have the Bill, though I might not earn so much."

214. SAMUEL PEARSON.—I am manager of the dressing shop. We start most times at 6 a.m., sometimes sooner, and go on when work comes in till 8, 9, and 10, without stopping; one stops for meals while the other goes on. I have four boys with me under 18; they cannot miss being tired at night, and in summer it is nearly melting, it is so hot. The lads are off sometimes from sickness; one was off for a week or two, the others now and then. All the young men wish for the ten hours Bill, I am sure they do; and I myself wish for it very much; it would be better for health for all of us. I have been here between 4 and 5 years. I feel that it is too long to work as we do often when we are busy, sometimes for months together. If there is a "push" we are agate from 4 or 5 in the morning till 9 or 10 at night, sometimes only for a day or two, but sometimes for a week or a month. We feel it very much, in summer time especially.

215. ROBERT KIRKMAN.—I belong to the stove. There are 4 men in the stove and 11 boys. Two boys stop every night till 10, 11, or 12 o'clock, beginning at 6 in the morning. It is hot "by times" while they are at work, but most times cool; in summer time it is difficult to get cool, the heat stops in, and then sometimes it is shocking—I mean, we feel it very much. I should like very well the ten hours Bill. We could dry between 6 and 6 a good deal more cloth than we do now, if we could be kept agate. Those boys who work from 6 to 10, 11, or 12 at night, do not go on longer the next day than 3 or 5. They have one long day and one short day.

216. WILLIAM RAWSTHORNE.—The manager of the making-up room is absent. I am the book-keeper, and am conversant with the hours of work. In the making-up rooms there are 8 men and 26 females; four of these are from 11 to 13, and the rest from 13 to 21; one is 35. They work by sets. Last Friday, for example, one set began at 2 o'clock a.m., and worked till 12 p.m., nearly 22 hours, but this is very rare, not one time in 3 months. They came again from 6 to 7 on Saturday morning. We work generally till 7 or 8 on Saturday evening. The usual hours of work in the making-up room are from half past 6 in the morning till 9 or 10 at night. One set out of that goes home at tea-time (5 o'clock), and comes back at 2 a.m.; they then work till 5 p.m. They will do this all the week through. The six sets take the night-work in turn, so that the night set works at night one week out of six.

217. Of the four girls under 13, two begin at 2 a.m. and work till 5 p.m. every day every alternate week. The other two begin at 6 a.m. and leave off from 9 till 10 with the other sets. The following week they will take the place of the other two, and work from 2 a.m. till 5 p.m. for the week. They do this regularly; we are very seldom slack. As they grow up, they are put to hooking and other work. There are many in that room that are often off work from fatigue. One was off five days last month, and another four days. The month before, one was off 14 days, another 12, another 6; and others 3 and 4 days; this I believe was caused by the long hours. In November one was off 13 days, another 6, another 4, another 3, and so on. In October two were off 5 days, another $3\frac{1}{2}$, In September one was off 21 days; she had fits, and the doctor said they were brought on by the long hours, and he requested that she might be put to work for 6 or 8 hours a day; another was off 20 days, two more 3 and 2. In August the same girl who has fits was off 13 days, another 5, another 4, another 3 and 2. In July one was off 13 days, another 7. All these particulars are taken from the scrap memorandum book. If we were to look through the whole, it would show about the same as the above.

218. THOMAS GREENHALGH (Messrs. Ridgway Bridson's Bleach-works, Bolton).—I am foreman of the white making-up room. Our hours in the three slack months of the year are very irregular. We endeavour to give over during daylight, without burning any gas; but sometimes we light the gas and go on later. In the other nine months we are generally busy. Some of us begin a little after 6, and all are agate by 7; and we go on till 8, 9, 10, and sometimes 11 and 12. The regular time to stop is between 9 and 10.

219. We have in this room 6 men, 11 women, and 16 or 17 girls; no boys. I do not know but they would all be better with shorter hours; they would be more cheerful and up to their work. If the short time Bill was to pass, the work might be so arranged that there would be no difficulty in stopping exactly at 6. We might get everything straight by that hour, by arranging it so beforehand.

220. ABRAHAM COOPER.—I am 32 years old; I have worked in bleach-works 18 years. I do not think but my health would be better if I had not worked such long hours. I have felt it in my health; I was never so hearty as many others. I should like the short hours Bill. I do not think but it would be better both for master and servant. All would be able to work harder during the day, and would get over nearly as much work.

221. MARGARET GREEN.—I have worked here about five years. I have often been knocked up by these long hours; it is frequently the case with the girls, it is very trying. I know they are all in this room very anxious for the short time Bill.

222. ESTHER HAMPSON.—I have been often ill with working such long hours. I have suffered in my legs and ankles, and from my feet being sore.

223. ELLEN POTTER.—I have worked here close on 9 years. I have just been ill with fever; I believe I caught it from being so long at my work, and going home so late at night. I have buried one little sister; my parents always thought it was from the long hours. She came here at 10, and was 14 when she died, and she used to work very long hours; she was ill ten days only. I had very hard work to stand last week, when I came back from the fever. I have often suffered great pain in my legs and ankles from standing so much and moving about all the day.

224. MARY ANNE COPPERTHWAITE.—I have worked here going on 9 years. I have been often so bad with pain in my legs and feet that I could hardly get up in the morning, and I have been sometimes that I could scarcely get home at night. I am going on 20.

225. JANE PLATT.—I am 23; I have worked here 13 years. I have never been ill more than a day or two; but it is very tiring standing at this work so long. I have often had great pain in my legs and ankles. I wish much for the short hours, though I might not earn so much as I do now.

226. ALICE HAMPSON.—I am going in 16. My feet are almost always sore. I have worked here 3 years.

227. ELLEN MOORE.—I have had to get on up and down as well as I could with my sore feet. They have ached very much. I am going on 14. I have worked here 3 years next Easter Monday.

228. MARGARET PARKER.—I have had "the aching legs" many a time. In summer my feet have been very often sore. I was 16 the 3d of the month; I have worked here 5 years. I have never been ill so as to be off my work, but I have many a time a sick head-ache.

229. NANCY HOPWOOD.—I have been working here 11 years. I have never been off my work from sickness, but I have been very "ill tired" many a time, and should like the shorter hours; they would be better for the girls and women. Some that are strong can stand it better than others; but others have to rest many times from the fatigue,—I mean, they have to stay at home to rest.

230. ESTHER WOLFERDEN.—I have worked here 32 years. When I was young I used to suffer from the long hours. We worked longer hours then than we do now. We work now when we are busy from a little after 6 to about 9, and on Friday night it will be later. These hours are too long, especially for the younger ones.

231. MARY STANLY.—I have worked here 22 years. I have felt very much fatigued and wearied sometimes; but we work shorter hours now than we used to do; but the hours even now are too long for the health and comfort of the females.

232. ALICE POTTER.—I am 19. I have worked here close on nine years. I have several times been off my work for a few days together, and am often very tired with the long days. I call a long day from 6 or 7 till 9 or 10. We very often work those hours, and sometimes later. We never know in a morning what time we are to get home at night. I have often had the skin off my feet. I think the short time system would be better for our health, and better in every other way.

233. NANCY GREENWOOD.—I am going on 17. I have had sore feet, and my legs often ache with standing and working so long.

234. [Eight other younger girls all said they had had sore feet, and some said they had had swelled ankles, chiefly in summer; and three said they had not.]

235. WILLIAM RAWSTHORNE.—I am 22. I have worked here nearly three years. I think the short time "wants getting" in the bleaching and finishing and dyeing establishments, all these, principally for the females; and for the boys and young men, that they may have the privilege of getting educated similar to others. I think I should not be so weakly-looking (though I am not ill) if I had not worked such long hours. All the young men in our set wish for the short hours.

236. ANN SIMPSON (14), ELIZABETH HILTON (15), SARAH HIGSON (16).—We came to work last Friday morning at half-past 6. We worked all Friday night till half-past 5 on Saturday morning. We did not stop to sleep any time in the night, except on Saturday morning at half-past 5 we lay down to sleep on the hooking box, and slept till a little after 7; then we went to breakfast for half-an-hour, and then came and worked till 10 minutes past 11.

237. [S. HIGSON said she had worked four or five times all night. ANN SIMPSON, three or four times. ELIZABETH HILTON, only once.]

238. PHITHIAN MONKS.—I am foreman of the dyeing and making-up room. I worked last Friday till Saturday morning with those three girls, and what they have said is correct. I worked all night with them those three times that they mention, but they were some time ago.

239. There is an order put up on the door of this room (the white making-up room) saying that no females are to work except between 6 and 6. It is dated December 4; but it was violated in the same week that it was put up, and has never been acted upon since, except when they have had nothing to do.

240. THOMAS GREENHALGH, foreman (having heard the above evidence read over to him).—I cannot see that there is anything wrong in it. "Is there any chance for the Bill being "passed this session? I think the young men, as well as the females, would be glad that "it should pass this session."

241. WRIGHT MATHER.—I am foreman of the clamping-room. I have four lasses working under me. We sometimes have two sets working, one the night set, the other the day set. In summer I have seen the room 130° hot; in winter it is generally about 80° to 100°. We have come at 6 a.m. and worked till 9 p.m. all last week. When we work night and day the hours are 12 for each set. We often work night and day for weeks together when we are busy.

242. There are four clamping-rooms, and when they are all agate there are 16 females at work in them.

243. In the other drying-place (the progressing frames) there are five boys; they work very often 16, 17, and 18 hours to the day. The heat is very great in that room, from 100° to 150°, and that is under the mark. The boys have to sit down and work the little engines. [See further § 1335.]

244. ROBERT LONGWORTH.—I work in the stiffening department of the dye-works. All kinds of colours are stiffened. There are some colours that might take harm if they were not stiffened and dryed at once when they have been begun. If the law was to say that the boys were to stop work at 6, and I had a piece in that dangerous state, I could send them away and finish it myself.

245. JAMES STONES.—I am foreman of the dyers. We dye all kinds of fancy colours, all calicoes and muslins. We can all arrange, men and boys, to stop any part of the process at half an hour's notice, so that nothing shall take any harm. If the law was to say that the boys must stop at 6, we could arrange for all the men to work on to 6. We might leave a batch of 25 (24 yards) pieces, that might hurt, till next morning, only we should have to run it through water again; that would take about 10 minutes. That is the extent of the hurry. We have here about 20 dyers, and only two boys employed to get up cloth ready.

246. Wm. Crompton.—I am 17. I have been four years and a half in the dressing shop, There is one boy beside. We come at half-past 6 sometimes, and go on till different hours, sometimes early, sometimes late. I worked once three days and three nights, and not long since I began work on Friday morning at 4 p.m. and worked till 5 on Saturday night. I mostly slept at meal times, and only stopped one hour for meals, the rest I eat while I was working.

247. The pieces of cloth that run over the hot iron run from 20 yards to 120; the general length is 24 yards. It takes only five minutes to run the longest batch over.

248. [Where steam power is employed they have the means of lifting up the cloth from the hot plate or the gas, and can stop at any time in the middle of a piece of any length, by pulling out the stitching.— Phithian Monks.]

249. Wm. Crompton.—I worked in the machine bleaching department 18 months. Most times in those 18 months I came to work between 4 and 5, and was very glad if it was sometimes 6; and we used more times to give over between 7 and 8, and always in a wet state.

250. Thos. Farrington.—I am 17. I worked in the machine bleaching about 2 years, generally when we were very busy with shirtings we used to begin at 4 and go on till 9 and 10. There are now four boys with those machines. I am now in the hand bleaching. I come at 6 as a general thing, and work till 7 and 8. There is a night set, and one out of the day set has to stay all night till 6 o'clock the next morning. I have had to do that for a month together, once every week, sometimes twice. Generally it is a man that does it.

251. Messrs. Blair and Sumner, Millhill Bleach-Works, Bolton. The following is a statement of the average working hours in the under-mentioned departments, from 1st Aug. to 31st Dec. 1854:—

		Hours per Day.
Stitching (grey cloth)	average	8·607
Crofting (bleaching)	„	9·415
Mangling	„	10·20
Stoving (drying)	„	11·44
Calendering (finishing)	„	10·75
Making-up and packing	„	10·25
		60·662
Average of the whole		10·110

252. Mr. ———,* manager of Messrs. Blair and Sumner's works, stated.—In the mangling department we have only started once in the last six months before 6 o'clock, and we always stop at 10.

253. The working hours of two long weeks were as follows:—

14, 13, 11, 10, 8, 13 = 69 - - - - average $11\frac{1}{2}$
13, 13, 11, 13, 12, 10 = 72 - - - - „ 12

254. The above statement of average hours from Aug. to Dec. includes five working days, when we stopped. In round numbers, 50 hours. As the time above specified (from 1st August to 30th December) includes 130 working days, those five days must be deducted, leaving 125. Of those five days, one was the day of Radcliffe races, when the people stopped for their own amusement; on the other four our machinery was undergoing repairs. They therefore made up the time lost, by working more hours on the days following. Deducting those five days, the average becomes 10·518.†

255. The females and boys all begin and end work at the same time as the men.

256. The above departments includes all we have, except millwrights and spademen.

257. Those employed in stitching are all females.

258. In crofting, there are no females, only boys and men.

259. In mangling, there are females and boys.

260. In stoving, boys and men.

261. In calendering, there is only one female.

262. In making up and packing, there are females and boys. This department employs the greatest number of females.

263. The crofting employs most boys.

264. We have no hot places where either boys and females are employed.

265. In the stitching department the females have oftener started at 8 and 9 than at any other hours. They generally finish at 8 or 9 at night; sometimes as late as 10 or 11. Their average is the shortest of the whole, namely, 8·607.

266. In the stoving, they make a point of beginning, if possible, about half-past 5, and they seldom or ever work later than 10.

* I omitted to ask this name.

† A proof of the necessity of narrowly examining statements of this kind, from the books.

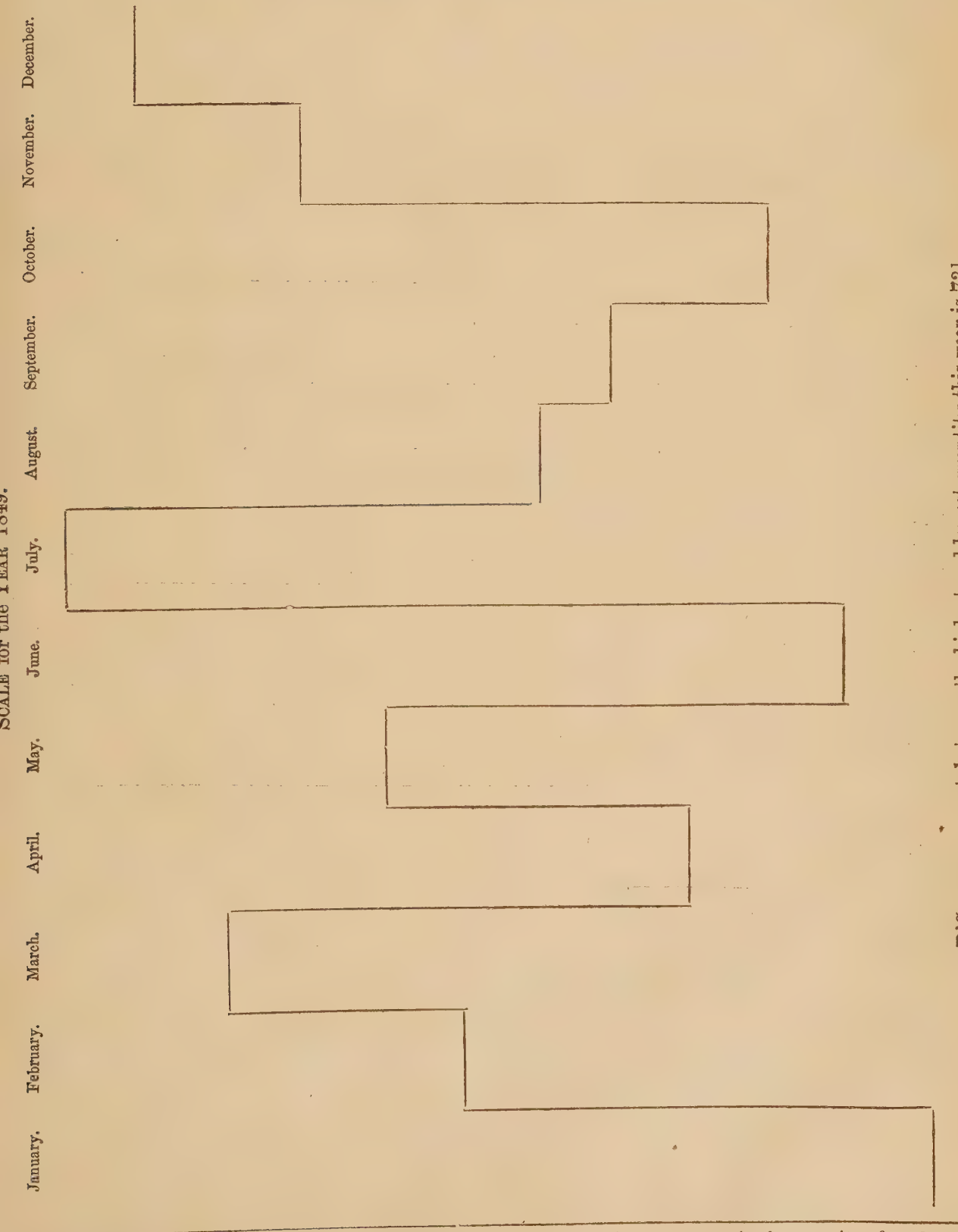
267. In the calendering, they generally begin at 5 a.m., and end at various hours.

268. In the making up, the hours of beginning and ending vary greatly also.

269. In the whole of the departments, it does not follow that the hands are working the whole number of hours stated above, and it very often happens that each set has to wait for work to serve to them from the preceding sets.

270. All the work is piece-work. The bleachers reckon that they can earn one day's wages in somewhat less than eight hours. The other departments reckon pretty much in the same manner; so that if the females or boys in any department work 16 hours they would make two days' wages; in 12 hours they can earn a day and a half, and so on.

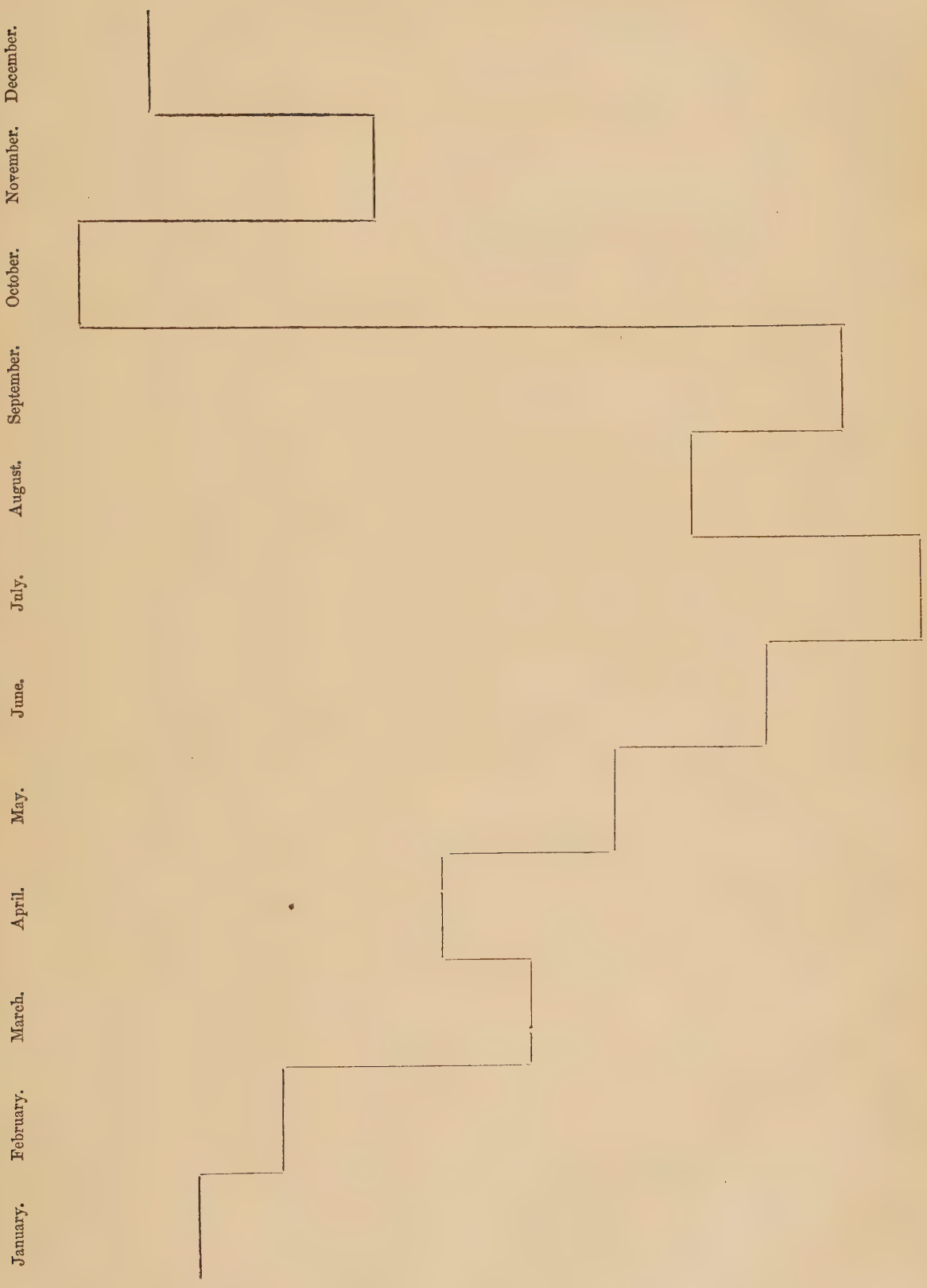
271. The work carried on at these works consists chiefly of bleaching and finishing plain long cloths or shirtings. There is a much larger quantity of plain goods bleached and finished than fancy or figured goods. The following tables show the fluctuations in the amount of work in the different months of the years 1849 to 1853* :—



* These tables were made out simply for Mr. Blair's private information, to ascertain the quantity of work done. Mr. Blair has similar tables for the last 12 years.

Scale for the Year 1850.

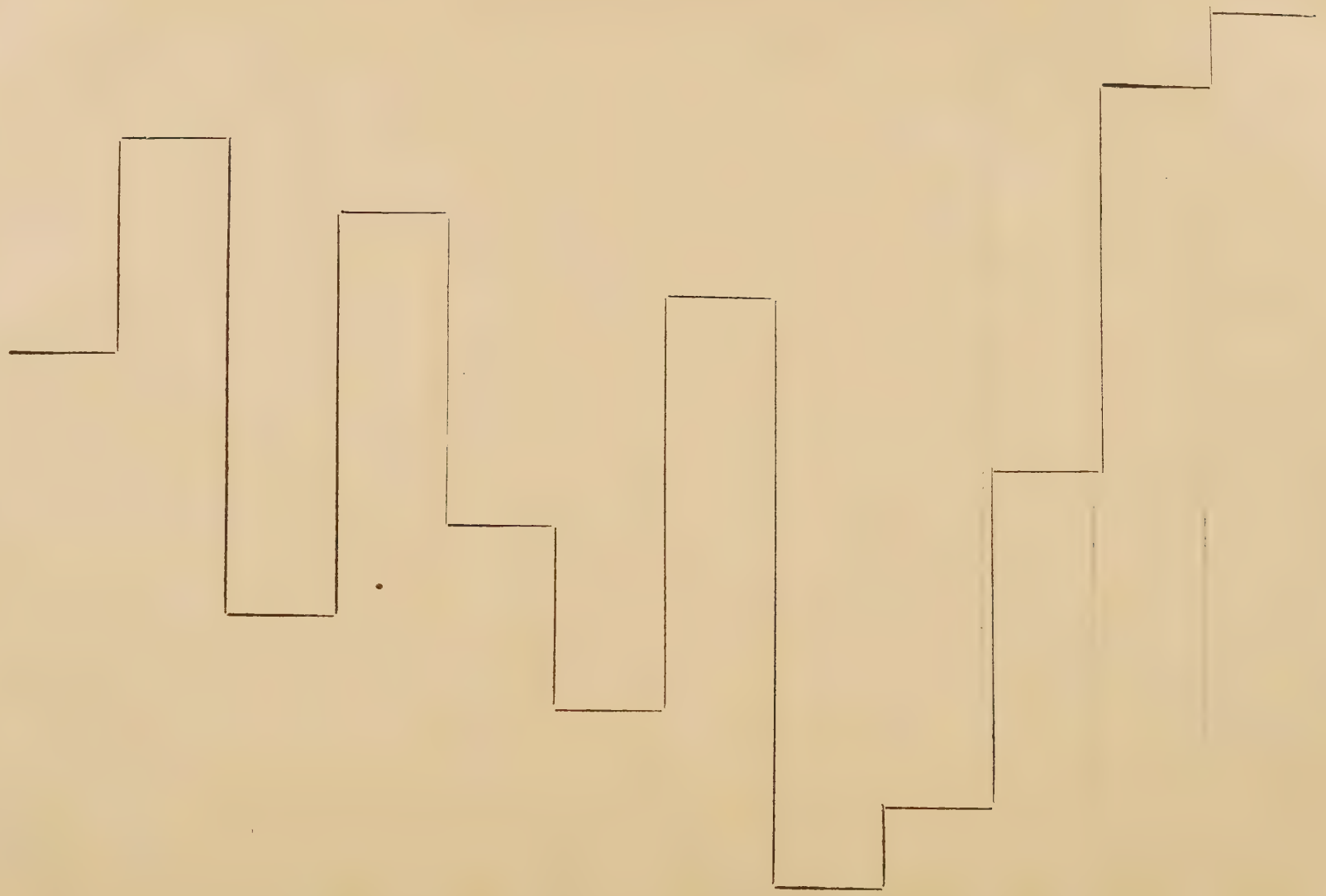
Difference per cent. between the highest and lowest quantity this year is 73.



Difference per cent. between the highest and lowest quantity this year is 72.

SCALE for the YEAR 1852.

January. February. March. April. May. June. July. August. September. October. November. December.



Difference per cent. between the highest and lowest quantity this year is 155.

Scale for the Year 1853.

Difference per cent. between the highest and lowest quantity this year is 151.

272. Persons employed at Messrs. Blair and Sumner's Bleach Works, Bolton, 18th January 1855 :—

273. JANE KAY.—I am 17. I have been working here two years. Since new year's day we have come at half-past 4 and 5 o'clock, and worked till 8 and 9. We stop for meal times, and not at any other time. Sometimes we have to wait for the cloth, but we have not waited this long time. When there are "pushers" on, we come towards 1 o'clock in the morning, and work till towards 9 at night. We then come about 5 o'clock the next morning, and work till about 9. Sometimes, I come twice a week at 1 o'clock in the morning and work till 9 at night. I have sometimes sore feet, but they do not get hot; they are very hard at bottom. They get sore about the middle of my foot. Last year I had a very bad ankle, and my ankle bone was growing out. My father is a millwright.

274. ELLEN LALAM.—I have worked here two years. I have often sore feet; the skin comes off, and they are very sore.

275. MR. NICHOLSON, manager.—There are 19 females in this room, 12 of them are under 18. Although these girls say they come at the hours they mention, they are the hours at which they are ordered to come; but they frequently come from a quarter of an hour to an hour later, sometimes even later than that. They are correct in saying they go away between 8 and 9; and sometimes, also, they begin work at 12 o'clock at night, and may do so two nights following. But when that is the case, they give over at tea-time, 5 o'clock. In some cases, when they come at 12 at night, they will work till 8 or 9 the following evening.

276. MARY HAYWARD.—I am 22 years old. I have worked here 8 years. We all in the room are ordered to come generally at 5 o'clock, but it is generally 6 before we begin to work; and we leave off about 8 or 9, sometimes 7, sometimes 10. I should like very well a short-time Bill to be passed. I make now generally a day and a half's wage every day. If the Bill was to pass, and I could not make a day's wage, I would chance that. We should be willing to pay for it. If we were to work shorter hours we could make our own clothes; now we have to pay for that. Every girl in the room would like a short-time Bill, though they would earn less wages.

277. ELEANOR KAY.—I am nearly 14 years. I have been working here for about 2 years. I have often sore feet; they bleed sometimes, and I have had swelled ankles, and my ankle bone has been growing out. My father works at Mr. Hough's Foundry.

278. ESTHER COOPER.—I am 19. I have worked here 12 months. Last summer I was very unwell from these long hours. I used to faint sometimes when I got up in the morning. I have suffered very bad in summer from swelled ankles, and from my feet. The bottoms of my feet are always worst. I worked in bleach-works before I came here; four years before. My father works in this room. I should like the short-time Bill very much, though I should earn only a day's wage instead of a day and a half, or two; I should earn what would keep me, and my health would be the better; and I should be able to get more learning.

279. JANE SPENCER.—I am going on 16. I have been working at hooking four years on Saturday; I generally come to work at 5 o'clock in the morning, and stay to between 8 and 9 "to night." When there are busy "pushers," I come at 1 or 2 in the morning, and stay till 7 or 8 to-night; it is not often that we do this two days together. The next day we will come at about 5 in the morning and work till about 7 at night. The next morning we will come about 5 o'clock, and work till about 8. When I have to come at 1 or 2 o'clock, sometimes it does not come above once in a week, sometimes it is twice in a week, but not oftener. I have never been off work above a day. My feet are very sore in summer, and are very hot; the skin is off very often, and the soles of my feet are blood-raw. My father works in this room.

280. MARY ANN NIBLOTS.—I am going on 13; I have been working here going on for two years. I come to work sometimes at 5, sometimes at 7, 8, or 9 o'clock; sometimes, when there are "pushers" on, I come at 12 o'clock at night, and generally go home at tea-time next day; I have sometimes sore feet; sometimes my heels, sometimes my toes are sore. My father is a coachman.

281. THOMAS SPENCER.—I am 12 years of age. I have been working here six months; my employment is sorting ropes for packing. I come at 5 o'clock in the morning, and am always here at that hour, and go home sometimes at 9, sometimes at 10. On Fridays we work all night sometimes. I come on Friday morning at breakfast-time; on Friday evenings at 6 o'clock I go home and go to bed for four hours. I feel very tired when I leave off on Saturday morning; my feet are often blood-raw, and they pain me; they are bad in the summer. I wear clogs and woollen stockings. My father is the stamper here.

282. JOHN COOPER.—I am foreman of the packers. Thomas Spencer is ordered to come at 5; he generally begins actually working at half-past 5 or 6; he is not on the premises before that; he leaves off sometimes at $5\frac{1}{2}$, at 6, 7, 8, and 9, very seldom later. In the last six months I do not think that he has worked all night except once, although he says he worked so once in November and twice in December.

283. Female workers at Mr. Bealey's Bleach Works, Radcliffe, near Bury:—

284. SARAH LOMAS.—I worked at factory, but it was too hard for me. I like this work better, though I sometimes work from 6 to 12 at night. It was a hot place in the factory, and hard work; and it was the smell that did not agree with me. I make more money here by the long hours, many times double wages. Last month I made 12 shillings a week, but I would rather the short time Bill passed, and I only made 8 or 9 shillings. I should not mind going on till 8 sometimes, but I do not like being so late.

285. ELIZA WOLSERTON.—I shall be 11 next March. I have been here two Christmas Days. I come at 6 and get home at 9 or a little after, sometimes past 10; I am often very tired, and my feet blister at bottom, and are very sore. Mother puts some stuff to it that makes the new skin come. My father is a joiner.*

286. Messrs. TOOTAL, BROADHURST, and LEE.—We are manufacturers of plain and fancy muslin goods, for the American and home trade. The American trade is a season trade. Our orders come in for the spring trade in October, November, and December, and are delivered by the middle to the end of January. A period then of two months elapses, in which the orders are very small both in number and amount, as appears from our order-book which I have shown you.

287. The goods for this market are kept in the grey or unbleached state. This is necessary, to a great extent, because we do not know on what finish or with what mark our customers may require them. We keep a certain quantity in the finished state, that for which we have the greatest demand. There are three kinds of finish; one called the common finish, for which the demand is the greatest.

288. We supply pattern-books to the shippers, with the view of obtaining orders from them. These books are shown to their customers in the United States, and from them the orders are given. In one quality alone we have about 250 different patterns. This pattern-book, containing patterns suited to the American market, contains about 5,000 patterns. It is impossible for us to learn beforehand how many pieces of any particular pattern may be ordered at any one time, or the finish and mark to be put upon them. We therefore cannot keep any large quantity in store finished, but find it to our interest to keep the goods in the unfinished state.

289. Supposing the hours of labour for females and boys to be limited by Act of Parliament, the bleacher, in order to get through the same amount of work in the same time as at present, would either have to extend his works, or employ adult labour.

290. It is our interest to have our goods finished by the same bleacher whom we usually employ, because our character as manufacturers is associated with the finish usually put upon the goods.

291. The same principle applies to the home trade, to a limited extent. We are generally most busy for the home trade in the spring.

292. The great bleaching and dyeing business of the country is in plain and fancy shirtings, jaconets, twills, and mulls (a finer kind of jaconet).

293. The price paid to different bleachers varies considerably. We think it our interest to pay at least 10 per cent. more for one bleacher's finish than for another's. The cost of bleaching different qualities of cloth varies considerably also; from 25 per cent. on the lowest qualities of grey cloth, costing about two-pence a yard, to 5 per cent. upon the highest, costing sixteen-pence per yard. Supposing a bleacher to be obliged to raise his prices ten per cent., it would be to him a very important addition. Ten per cent. upon the present cost of bleaching would not make any material difference in the selling price of the goods, provided all were to pay alike.

294. The cost of bleaching a piece of 12 yards, sold for 2*s.*, or 2*d.* per yard, would be 5*d.*, or about 25 per cent.; and upon one of the same length, costing 16*d.* a yard (16*s.*) would be 7*d.*, or about three per cent.

295. An addition of another 10 per cent. (20 per cent. on present cost) upon the cost of bleaching would make, for a piece costing 16*s.*, only three-halfpence; and upon a piece costing two shillings (the lowest quality) would be a penny, or three and three-quarters per cent. upon the value of the article. Even this could make no important difference with regard to the foreign trade, though, as a general principle, it is of course undesirable to add in any way to the cost of articles on which we have to meet competition abroad.

296. My opinion, however, is, that if such a rise of price were to be carried into effect it would only be maintained for a time. The workmen are of a contrary opinion, and that they would gain the benefit of the increase. But the competition is now so close that means would be sought for, and probably soon found, to do away with some of the manual labour now employed, as has taken place in the factories.

297. Mr. LEOPOLD REISS (L. Reiss and Co., largely engaged as general merchants) stated —My opinion is, that if it is proved that the boys and females in bleach-works suffer in health or otherwise from working the present long hours, they are fair subjects for legis-

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* I was occupied at these works principally in considering with Mr. Bealey the general question of the arrangements that might be most satisfactory to employers and workmen, supposing legislation to be found to be necessary. Mr. Bealey's establishment is amongst the largest in the trade, and bears the character of being one of the best arranged, and best conducted.

lative protection. A limitation of their hours of labour might occasionally produce inconvenience to the merchants, but I think it would by degrees adjust itself, except in some cases, when orders arrive just before a vessel is going to sail, and there would be no other opportunity of shipment for a few weeks or even longer. Sometimes, as in the case of goods going to China, if a vessel misses the monsoon it might make a couple of months difference. But this is an exceptional case. Merchants would have to think of their orders a little beforehand.

298. M. LEISLER (Du Fay and Co.).—We are largely engaged in the export trade in cotton and other goods to nearly all parts of the world. I am of opinion that, if the labour of females and boys in bleach-works were to be limited by Act of Parliament, very little inconvenience would arise to the shipping merchants. If we had occasion to execute a large order in a limited time, and could not get the whole quantity of cloth of a particular finish from one bleacher within that time, we should divide the order among several. There are several whose finish is sufficiently alike to enable us to employ them for similar kinds of work. Some inconvenience might occasionally arise from our not being able to execute a particular order for the United States, but the business in bleached cloth with the United States is not of a very large amount. Probably no change of the kind in question could take place without giving rise to some inconvenience, but the parties affected would learn to adjust themselves to it.

299. The only question which might arise as an objection is, how far any enhancement of price that might ensue would render it more difficult to compete with adjacent countries.

300. Mr. MATHER (evidence confirmed by a gentleman of the firm).—I am warehouseman to Messrs. Bannerman, and much connected with the orders given to the bleachers for cotton goods.

301. For goods destined for the home trade, the bleachers require us to give them a certain time to execute the order, from 10 to 14 days. The goods being delivered in heavy lots to the bleachers, from different large houses at the same time, it is often impossible to get back a lot under a month.

302. The orders for the foreign trade being required, in most cases, to be executed within limited time, the bleachers are compelled to work overtime to complete them.

303. There are some bleachers who execute certain finishes in a superior manner, and have, therefore, a greater demand. Each principal bleacher has a particular finish of his own in which he excels, and which the others try to imitate.

304. If we had an order from abroad or the home market for the finish of any particular bleacher, we could not venture to send that of another bleacher, however good the imitation might be. We do at times, but very seldom. More often for the shipping trade. The finishes for the foreign trade are more easily imitated than those for the home trade.

305. When foreign houses order goods by certain ships we are compelled to send them, as frequently the parties effect the insurance on the other side of the Atlantic.

306. Our business is principally in the home and Canadian markets. We send, in the course of the year, large quantities of cotton goods to the bleachers. The occasions when it may be necessary for us, under present arrangements, to send an unusual quantity at a time to be bleached, or to require a lot of cloth to be sent back in a very short space of time, by which the bleacher is, as it is termed, "pushed," to get through the order, are exceptional cases. The orders for the home trade have for some years past been becoming more evenly distributed throughout the year. Formerly the home trade was, to a great extent, a season trade. Now the facility given by railways causes our customers to come here every two or three weeks, and order what they want in smaller quantities from the goods we keep in store. When we find any particular description of goods running short, we send cloth to the bleachers to be finished and returned to us.

307. As regards the Canadian trade, it used also formerly to be almost entirely a season trade. The purchasers gave their orders in February and March, to be executed in April. They were then dependent, to a great extent, on the navigation of the St. Lawrence. Now the railways are fast making the trade quite independent of that mode of communication, and the orders are becoming more and more distributed throughout the year.

308. Mr. JOHN SLAGG (J. Slagg & Co., Manchester).—We are manufacturers of cotton goods, and are also commission agents. We have occasion to employ the bleachers largely. I am generally conversant with the state of the people employed at several bleach-works, and I am of opinion that there is a class of children and women employed in bleach-works that requires the protection of the Legislature. They are employed very often a very undue number of hours, although their parents, who work with them, may be, in many cases, earning very high wages. The irregularity of the employment induces the men to work sometimes night and day as long as their strength lasts. A limitation of the hours of labour for females and boys would probably lead to a more regular distribution of the work at the bleach-works. At present, as we know that a bleacher will undertake to bleach and finish (say) 1,000 pieces of cloth in five days, we, in some cases of sudden orders, only give him five days to do it in. If, in consequence of legislative interference on behalf of the females and boys, we knew that such an order could not be executed under seven or ten days, we should be obliged to make our arrangements beforehand, so as to give him seven or ten days.

309. If one bleacher (A.) could not execute the whole or any particular quantity we wished to have finished by a certain time, we should send part of the order to another (B.). On another occasion it might be that the latter (B.) would be nearly full when we wished an order to be quickly executed, and we should send the next batch of cloth to A.; so that if one bleacher lost a part of an order on one occasion, it would be made up to him on another. If the hours were limited for females and boys, it is possible that, rather than run the risk of this, the bleachers would all make great efforts to enlarge their works, and keep more hands ready to be employed, so as to get through as much work as they do at present in a given time. They could only do this by laying out more capital, for which they must be compensated by a rise of price. My opinion is, that a rise of price sufficient to compensate them for this additional outlay, would do no injury to trade. The cost of bleaching is so trifling compared with the price of the grey cloth, that a moderate per centage (say to the amount of ten per cent.) upon the former could be borne without danger or difficulty.

310. If the legislation contemplated were to oblige a general rise of the charge for bleaching, &c., to the above amount, as it would be alike for all purchasers, it would make no difference. Such a rise would not endanger our position in the foreign markets.

311. I dislike the idea of legislative interference in matters of trade; but if a case is made out requiring it, I consider it justifiable.

312. We might possibly occasionally lose a season for a shipment or two, if we could not execute a sudden order as readily as at present towards the end of the season, but such cases would be exceptional.*

313. Mr. John Pender and Mr. Cowan, Commission Agents, and on a very large scale, for the purchase of cotton goods for all the markets of the world, stated to me, that although, in their opinion, every legislative restriction on trade was to be avoided as far as possible, as tending to limit its operations; yet, as regards the hours of labour of females and children in bleach-works, they considered them to be at times much too long, and that some limitation should be put to them by the Legislature.

314. The result of such legislation might be, occasionally to prevent an order being executed at the time required.

315. As, for instance, he might receive an order for a certain quantity of bleached goods to be shipped by a certain day, but which in consequence of the additional time required by the bleacher, could not be accomplished; and there is no doubt the rapidity with which goods can be brought forward materially increases the trade.

316. Towards the end of the shipping season to India and China this would be most felt, if much restriction was placed on the operations of the bleachers.

317. Mr. Pender and Mr. Cowan considered that when the trade got accommodated to the new system these difficulties would diminish, and that the greater regularity in the arrangements of the bleachers would enable them to conduct their business with very little additional cost.

318. Mr. Dorrington (of the firm of George Frazer and Co., commission merchants for foreign markets):—

319. We are engaged in the putting up all kinds of cotton goods for export, to nearly all the markets in the world. Ours is probably one of the most regular and least fluctuating businesses of this class in the trade. We have occasion continually to send large quantities of goods to bleachers. The statement now exhibited to you is that of the monthly transactions with our bleacher for the last five years, and indicates the actual fluctuation of work in each year. From this statement it appears, that in each year there are fluctuations in some months which, as compared to others, are considerable, some being half as much again as others, and some nearly three times that of others, and without any regularity as to the months in which they occur. Sometimes there will be three or four months together when the work will be tolerably regular. These fluctuations are occasioned by fluctuations in actual demand for the various foreign markets, and if exhibited from week to week they would be very much greater.

320. The Brazil markets will afford an illustration. The shipping to these markets is generally smallest from June to September; but notwithstanding that, our orders have often been largest in those months. While the festivals are going on there is not much business, and also during the rainy months. You can send a cargo there at any time of the year, and ships are constantly going there.

321. The Bombay market is a season market, and when the monsoon has been favourable, and there has been consequently a good harvest in India, or if the supplies there are

* A gentleman largely engaged in this kind of business illustrated to me the working of the trade, in reference to sudden demands for goods to sail by certain ships within a given number of days, by two instances, in letters that day received from two different correspondents, A. and B.

A. had previously written to order 5,000 pieces of bleached goods of a specified kind, to be ready in February. Mr. ——— had answered that he could only send him 2,500 in February, but that he might have the rest in March. A. replied accepting the proposal.

B. wrote to order pieces of certain bleached goods to be delivered in London on the 15th day of February, to go by a ship which was to sail on that day, otherwise the goods not to be sent. Mr. ——— was about to reply that he could not undertake to have them ready before some time in March; and Mr. ——— did not doubt that he should receive instructions respecting the order for the date in March which he should specify.

limited, the demand is sudden, and great efforts are made here to dispatch goods, so as to arrive before the termination of the season of business.

322. The shipping for the Bombay market goes on from March to the end of November. The season out there begins about June, in ordinary circumstances, and ends at the commencement of the monsoon, about the month of April following. If we hear that the market is favourable, we frequently have occasion to send out additional supplies toward the end of the season; and if the bleachers could not prepare the quantity of goods in the same time that they do now, the amount would have to be curtailed, or a supply would be sought from other countries.

323. The same remarks apply generally to other markets, even where special seasons do not exist.

324. At present there is an enormous demand for certain classes of bleached goods for the Levant markets, arising mainly from the large expenditure of money going on in connexion with the war, together with the good harvest there of last year. To my knowledge, two or three of the bleach-works, which finish that class of goods, have been at work night and day for six or seven months, and have at the present time many weeks' work beforehand, for which there is the same urgent demand, so that merchants are obliged to wait their turn to get such work done. Our orders for this class of goods have been at least ten times the quantity in the last six months of this year that they were in the first six. They are for light thin fabrics of small value. Whatever portion of them could not be bleached would probably go out grey. The parties who are employed for this have got a name for this kind of finish; and rather than take other parties' work the merchants would not send any goods of the kind, inasmuch as these have a name from their style of work which others have not attained to.

325. The average selling price of a piece of goods of thin quality may be 2*s.* 6*d.* to 2*s.* 9*d.*; at present, the cost of bleaching is twopence halfpenny to threepence of that sum, or about three per cent. upon the value. A rise of 20 per cent. upon the bleaching would make the cost of bleaching threepence and five eighths, or say one per cent. extra upon the value of the goods.

326. This recent demand has been unexampled, and is quite an exceptional case in that market, so that no one would permanently provide machinery in anticipation to meet such a pressure.

327. Assuming that the bleachers have been working 24 hours per day throughout that time, it would have taken them twice the time to have executed this work under a twelve hours system; and my opinion is, that a very large proportion of this would have been lost, not the whole, because we probably should have sent out the nearest approximation to the article that we could have obtained.

328. A similarly sudden and great demand may very possibly arise for the China market, should the present disturbances suddenly come to an end by the success of either party. The markets have been for some time very irregularly supplied. When this sudden demand arises the bleachers may be called upon to work extra hours, (say) sixteen hours a day. If a law were to interpose which obliged them to work only twelve, they could only supply two thirds of the amount that they could under present circumstances within the same time; and the probable effect in China would be, that the other third would be supplied by other countries. The Chinese might not obtain the precise article they might desire, but the best substitute.

329. We have frequently sudden orders for various markets for goods to be shipped with urgency by a particular day. It appears by the correspondence laid before you that circumstances of this kind are now being acted upon for Peru. If our goods could not have gone out by this ship, we probably should have lost the market. We had occasion to push the bleachers for this. When a demand springs up, every one is anxious to be first in the market; and if goods were delayed from this country, the supply would in part come from some other.

330. My opinion is, that children in bleach-works or any other works ought not to be employed before a certain age, say 12 or 14, but that no limitation should take place with regard to the labour of adult males or females. I would rather see a limitation of hours of work brought about by general arrangement, as took place in Manchester in 1845–6. We were about the first shipping house that gave our countenance to the movement. Our clerks used before to be employed on Saturdays to a late hour. We have subsequently materially curtailed the general hours of labour in our warehouse, save in packing, which is all done by men, and by piece-work. We have ascertained by experience that our work is better done, but the work I now speak of is rather mental than mechanical.

Manchester, 1st February 1855.

331. Mr. SCOTT, partner in the firm of Jones, Brothers, & Co., spinners and manufacturers, and agents for the sale of the finest descriptions of Manchester fabrics:—

332. Jones, Brothers, & Co. do business with almost every foreign market and the home trade, and continually send out large quantities of goods to the bleachers, finishers, and dyers.

333. Taking it for granted (as the spinners and manufacturers do not complain), that the Factory Act works well for all interests, I do not know any sufficient reason why the same principle should not regulate the hours of labour, in bleach, finish, and dye works, reducing the first year, 6 to 8; second, 6 to 7; third, 6 to 6. I think the change would

be attended with advantage to the masters and the operatives, and to all other parties concerned.

334. The masters would be better able to keep their eyes upon their works, as the work would be done during the day, instead of, as now, the operatives playing often in the day, and then working during the night, for a pushing order; which the manufacturer or merchant would give more time with, if he knew it was required by the bleacher, &c.

335. The work would be better done, and probably with less damaged cloth, and less break-down of machinery, because the operatives would be better able to attend to their work; and there would be less running the steam engine at a great loss, for small pushing orders.

336. The supply of work would be more regular; and each bleacher would probably do as large a business, with a given quantity of machinery, &c., under a decreased number of hours, and, as they now do, working all hours of the night occasionally.

337. It may often happen, that a certain bleacher, &c., may lose all or part of an order, because he could not work above a certain number of hours, but another bleacher, &c., would get what he could not do, and *vice versâ;* the bleaching would be done by some one in this country.

338. Supposing that all the bleachers, &c., could not do the whole of an order by the time wanted, which is almost supposing an impossibility, and that all or part of the order was sent in consequence grey, it does not follow that so much bleaching, &c., would be lost to this country; because if Calcutta, or any other place, wants white cloth, the merchants there will soon be aware of it, and send positive orders for white cloth to Manchester. Buyers would soon find out that, to ensure their orders being bleached, &c., in time, they must give them out at once, instead of holding them till the last moment. It frequently happens that, for various reasons, they defer giving their orders out till the last moment, when everybody must be pushed to get them ready.

339. I think it is very doubtful, if it would require the merchant in Calcutta to send his orders a day earlier, as much time is lost by the buyers in England watching the grey cloth markets, to catch the most favourable time for buying, knowing that the bleachers, &c., will make a great push, and work night and day, rather than lose an order or any part of an order.

340. Assuming that it would advance the price of bleaching to 10 per cent., the average value of a piece of unbleached cloth taken at 6*s.* 6*d.*, and bleaching 9*d.*, makes 7*s.* 3*d.*; 10 per cent. on the bleaching is 1*d.*, say 7*s.* 4*d.* The difference between 7*s.* 3*d.* and 7*s.* 4*d.* might prevent the sale of one particular lot, but it would not prevent the market they were intended for from taking the goods afterwards, if there was a legitimate demand for them.

341. Probably, the same merchant might not send the order, or the same manufacturer or agent here might not receive the order, but it would come to Manchester nevertheless.

342. I do not believe it will have the effect of raising the prices of bleaching, &c., as the daily improvements in machinery, &c., for bleaching, &c., tend to reduce the cost, and would thereby neutralize any increased cots occasioned by a reduced number of hours.

343. The argument that one bleacher, &c., cannot do the class of work which another does, is good to the extent of probably about one-tenth of the general work, and to such extent is in favour of shorter hours, as buyers must give him his own time, thereby keeping his works more regularly employed, as no one else can do his style of work; this is exactly what each bleacher should aim at, excellence or peculiarity of work, and so to command regular and steady employment.

344. The Irish finish is a peculiar one, and I think would not replace English finishes, in the event of longer time being required under a restricted number of hours.

345. It would lead to the carters, who come from the works to Manchester and back, not being detained so late at night in Manchester, if bleachers would not receive and deliver work so late from and to the warehouses; and to much of the work which is now done in Manchester warehouses and counting-houses being done in the morning instead of at night.

346. Women and children working as under the Factory Bill would have the effect, by example, of reducing the hours of working for the men, as it might be found unprofitable to work the men alone.

347. The servants of bleachers, such as managers, clerks, &c., &c., who are paid by the year, month, or week, would be able to apply to the business with more energy as the irregular hours were curtailed.

348. This country being the centre of all kinds of manufacturing, bleaching, finishing, and dyeing, &c., has advantages over other countries in the shape of varieties of manufacture, bleach, &c., which would place it on a par with foreign nations, if they could bleach, &c, at half the price charged by the bleachers of this country.

349. [Mr. HENRY, one of the principal merchants, to whom I was referred by many of the leading bleachers for his opinion upon this subject, declined giving it.]

350. [Mr. KERSHAW, M.P. (of the firm of Kershaw, Lee, & Co.), to whom I was also referred by the same parties, expressed himself generally adverse to legislative restrictions on labour, and as much impressed with the inconveniences likely to arise to trade from

the one under consideration. Mr. Kershaw, at the same time, afforded me an opportunity of learning the opinion of Mr. Berry, who has the principal charge of the branch of business of that firm which has reference to the bleachers, dyers, &c. Mr. Berry was unwilling to make any detailed statement, but, having read the preceding evidence of Mr. Scott, expressed generally his impression that a limitation of the hours of work for the females and boys in those works would make no material difference.]

351. Mr. BARBOUR and Mr. FLEMING, Commission Merchants, Manchester.—We think that no one has a right to say that his work must go on for the same number of hours, if, by so doing, he injures the health of the females and boys in his employ.

352. We do not think the merchants, as a body, would be affected, or would raise any objection to legislative restriction of the hours of work for females and boys in bleach-works, even if it had the effect of limiting the quantity of work done within a certain time.

353. Those "pushes" might, we think, in many cases, be avoided by better management They are not desirable for any one. If the shipper would give his order earlier, it would save much extra trouble to every one. If it is put off to the last, the hurry and disarrangement goes through every class of persons through whose hands the goods have to pass. Ships are advertised to sail many days beforehand; and if all bleachers were, under any law, put upon the same footing, it would be all the same in the end. The orders would be given in reference to the altered circumstances. If what would be got now in eight days, could not under an altered state of the law be got under 10 days, orders would be given 10 days beforehand instead of eight. If two merchants were pressing a particular bleacher for goods, which now the second would get in 16 days,—under a restrictive law, such as the above, he would get them in 20 days; and so on.

354. What the effect of this would be upon the bleachers, is a question for them, not for us. In goods destined for long voyages, as for China, India, South America, and Australia, they would to us be a matter of little importance. We have orders for particular goods, and we must wait till we can get them.

355. Goods bleached and finished in half the usual time are apt to suffer injury by mildew, and we may be subject to heavy losses in consequence.

356. Mr. KLING (of the firm of Reus & Kling).—We are largely engaged as export merchants for cotton and other goods, and have frequent occasion to execute orders for Germany, the Mediterranean, the Levant, &c.

357. It might sometimes occur, if an Act were to pass limiting the labour of females and boys, that we should be subject to inconvenience and loss by not being able to execute an or order a portion of an order for bleached and finished goods for those markets within a given time; but as regards the continental trade, from that the communication is so frequent that, generally speaking, goods that might be too late for one steamer would go very soon after by another. Also as respects the Levant, &c., the general tendency of trade is that tne supplies for those markets are being gradually more extended over the whole year. My impression is, that the inconvenience would be more felt in the case of sudden orders to be executed for the more distant markets, as that of China and India, towards the end of the shipping season; and it might be very inconvenient for a shipper not to be able to send off a large quantity of goods by a certain ship, to do which he must get them bleached and finished in a very short time.

358. We prefer that the bleacher should take a reasonable time to bleach and finish goods that we send him, as they are likely to be better done. For some qualities we are obliged to go to a particular bleacher, who has his own stamps, and who finishes in a particular way that suits us best. But for the more ordinary kinds of goods, which constitute the great mass of the trade, we do not feel ourselves tied to any particular bleacher, but could get a portion of the order executed by another, if the one we usually employ should not be able to return the cloth as soon as we should wish.

359. If an Act were to pass placing the labour of females and boys under restriction, and therefore preventing our getting goods through the bleachers' hands quite as soon as we have been hitherto accustomed to do, we should all be in the same boat, it would be a matter of little importance to us.

360. Mr. A. S. THORNTON (Messrs. Thornton, Firth, & Co.).—We have large dealings with the United States, &c., and transmit to that market large quantities of cotton goods. The bleacher is in a very different condition from that of the factories, because he is not a maker of cloth, but he bleaches, dyes, and finishes cloth for the manufacturer or merchant, as it is sent to him. Sometimes an enormous quantity of cloth is sent to them at the same time; at others, their works will not be half employed. This is regulated by the foreign demand.

361. Sometimes we wish to have fine goods back in eight days and we get them; if then they are full of work (it may be for two months), we get a portion of them as we can. These are fine goods, which one bleacher has a faculty of preparing in a particular way for the market which we supply. Common shirtings do not require so much art, and there are many bleachers whom we could employ for these; so that as regards these we are not tied to any one bleacher, though we may prefer some to others. Sometimes we have to stamp our loth ourselves; for the fine goods, we may be sending cloth to the bleacher we prefer, at

the same time that another merchant is wanting to have fine cloth of a similar description from him; but for common cloths, we may have a score of bleachers whom we can go to. We keep blocks for stamping the common cloth, so that if we get bleached cloth from a different bleacher from the one whom we usually employ, and who has our blocks, we can put the marks on ourselves. The tickets and marks for the fine cloth (jaconets, &c.) are put on better by a bleacher.

362. The finer qualities of cotton cloth are chiefly bleached and finished by two bleachers (Mr. Ainsworth and Mr.), who probably bleach and finish as much of this description of goods as the whole of the rest of the trade put together.

363. We have been obliged to wait as long as three months for an order to be executed of one particular finish or mark, which we can only get, or which we prefer to get, from one bleacher; no one else can do one description of work for which we have orders but one bleacher.

364. Messrs. SCHUNK & SOUCHAY, Belfield Printing Company, Rochdale.—We have bleach-works near Rochdale for bleaching fancy goods. As these depend upon fashion and season, the demand for them is irregular, and we are often consequently obliged to work overhours.

365. Our goods go to all foreign markets, and are also for the home trade; they are fancy prints. We are liable to have sudden orders which must be executed in a fixed time. Our busiest time for the Australian trade is July, August, and September; the busiest for the spring is November, December, and January. We receive orders from the export merchants of Manchester, London, &c. The busiest time is generally at the beginning of the season. All parties are generally anxious to get their orders executed by a certain day, for certain steamers, for all parts of the world.

366. If an Act were passed limiting the hours for females and boys, and thus possibly for the whole, the delay caused by it would be the same for all; if the delay amounted to one fourth of the present time, an order would take one fourth more time to execute.

367. There would be an inducement to the bleachers to extend their works; if they wished to keep up the present rate of production, they would have to enlarge their works. It might be very inconvenient to the smaller capitalists, who might not be able to do this; but in the end the same amount would be got through as at present, but at a greater cost. The cost of bleaching pieces of 24 yards of the value of 3*s.* to 6*s.* is from 2½*d.* to 3*d.*; these are the only things we bleach.

368. We employ about 30 people at our bleach-works.

369. ALEXANDER NIGHTINGALE (Mr. Heywood's Bleach-Works, Salford).—I am head maker up. In the making up room there are nine boys from 11 to 14, and three girls and three boys from about 14 to about 17. The hours of work are 16 or 17 per day, and have been for the last three or four months. The boys and girls are always very tired, and there are nearly always one or two of them off sick from working so long; they often complain of their shoulders aching from lifting the cloth, and very often have sore feet; they would all like to have the short time Bill, although they would earn less, because they would have less labour and more rest. I have heard many of these little lads complain of not having an opportunity of going to a night school, and the girls the same. For a month or six weeks in the year we may not have work for half the day; the rest of the year we are working long hours, sometimes 12 and 14, sometimes 16, 17, and 18.

370. There is nothing in this department to prevent our stopping at any hour, and finishing the work on hand the next day.

371. They could also stop at any moment in the department before them (the calendering or rolling), also in the drying; before that is the mangling, when the cloth is in a damp state. We are all anxious to get the short time Bill this year, as soon as Parliament can pass it. We hope that we shall earn as much as we now do the year round, but at all events we would like to have the Bill; though there may be a risk of our not earning so much, we shall at all events be better in health. I was ill myself fourteen weeks once, in consequence of the work. I have been at this work seven or eight years. The lads very often miss school on a Sunday morning because they are too tired. I do not think but that all of them would be very glad to go if they could.

372. SARAH STUART.—I have worked at bleach-works three years and a half in the making up room. The work is very hard during the long hours, and my head aches and ankles swell sometimes. We should all prefer the short time; it would be more suitable to our health, and we should have time to ourselves in many ways.

373. JANE BELL.—Had been off ill several times. The boys said they felt very tired at the end of the day.

374. RALPH ENTWORTH, bleacher.—I have been working in bleach-works 40 years. There is only one process in which the cloth would spoil if left to stand, that is, when the cloth is in the chemicals; and that is only for the sake of the coloured ends, or headings, the colour of which would be discharged; but by hanging the ends out, there would be no danger, the cloth itself would not take any injury.

375. If we knew that we were obliged to stop at a certain hour, and could not get a kierful out, we should provide for that by hanging the ends out. In all the other processes, wet or dry, the cloth would take no harm for a day or two. It would take no harm if we stopped in the mangling, or stiffening, or drying, or calendering, or making up.

376. DENNIS TAYLOR.—I have been accustomed to bleach-works for 35 years, and am now manager in Mr. Heywood's works. What has been stated by Ralph Entworth is strictly correct.

377. ELLEN TAYLOR.—I worked at Mr. Hollins' bleach-works, Stockport, about four years. During all that time I was at work sixteen hours a day; a fortnight, night work; then a week, day work. The hours were from 6 a.m. to 10 p.m., and from 10 at night till 2 p.m. When we came off at 2 p.m., we used to go on at 10 p.m., and worked till 2 p.m. the next day; so on every alternate week. I used to feel quite fatigued. All the hands used to work in the same way. I left Mr. Hollins' six years since. I was then about 22 years old. There were plenty that had swelled ankles and were ill.

378. I worked after that for Mr. Holmes, bleach-works at Douglas-green. The hours there used to be longer, often 17 and 18 hours. We have often gone to sleep on the tables, or with our heads on the wet cloth, or anywhere where we could sit still. There were a good many girls and boys working the same number of hours.

379. We might not earn so much if we had a short time Bill, but we should not have to spend so much in expensive food. Our appetite gets so that we cannot eat common things, and we have no time for anything.

380. JOHN KNOWLES.—I am going on eleven years. I have been at work here in the bleach-croft since Eccles Wakes (last autumn). I come at 5 most times, and we begin at 6. I work till 8 and 9, and sometimes 11. It is not often that I can get to sit down a bit, except at meal times. When night comes I am very sleepy and tired. [His father works in the same set.]

381. Mr. W. WILLOCK (Messrs. Willock & Evans, Printers, Dyers, and Finishers, Broughton Print Works, Manchester).—We employ about 120 men, women, and boys; of these, only three are women, and about 16 boys. Of the boys, about half a dozen may be from 12 to 14. Our regular hours are from 6 to 6; but we have occasion frequently to work longer hours, and sometimes all night. When the latter is the case, we work by relays, and employ no boys or females. When we work as late as 10 and 12, we keep the younger one night up to these hours, and the next night we send that batch home at 8, so that they do not have two nights following of these long hours. These long continued hours of work arise sometimes from a pressure in our own business, sometimes from being tied in executing shipping orders by a certain day.

382. These extra hours seldom last more than a month at a time; but occur frequently throughout the year.

383. My opinion is, that if an Act were to be passed limiting the hours of work for boys from 6 to 6, we should substitute for them the lads above 18. Our younger boys are employed in very simple kinds of labour, such as folding the cloth, &c., or in keeping the cloth from creasing before it passes under the rollers.

384. Mr. JOHN WORRALL (Messrs. James and John Worrall, Salford).—I am managing partner of these fustian dyeing and finishing works. I have been engaged in it about 20 years. My opinion is, that it would be a great benefit to the trade, both to the men and the masters, if we were all compelled by law to stop working at 6 o'clock from 6 in the morning. As it is, our general hours are from 6 to 6. We sometimes work overtime, but when that is the case we have never more than one half of our workmen and machinery going, often one third; and the engines are running the whole of that time for only one half or one third the number of men. We cannot refuse the merchants at present to execute orders which oblige us to work overtime, but we should be very glad to be able to do so if the law compelled us.

385. We employ about 350 men and boys; of these, about 120 are boys between 12 and 18.

386. With a small additional outlay we could put up machinery enough to enable us to do within the 12 hours any work which we now do in overtime.

387. We should have to take on some extra boys for that extra machinery when they were wanted.

388. If we did not put up extra machinery, others probably would. If we were forced to stop at 6 and discharge the boys at that hour, we might take on men instead; because the proportion of wages paid to boys in the department where they are chiefly used is small compared with the entire cost of finishing. They are used chiefly in the dressing and finishing. We employ very few lads under 18 in the dyeing, the goods being too heavy for them.

389. We stop on Saturdays at 1 o'clock. We make 61 hours to the week. We introduced this plan about nine months ago. We thought before we tried that it could not be done, that it would interfere so much with our business. The half holiday on Saturday refreshes our men so, enabling many of them to get into the country, that they come to work on Monday morning much the better for it.

390. In the same manner there is no real difficulty in shortening the hours by law from 6 to 6, the only difficulty is in the apprehension of it. My opinion is, that, if we were all told we must do it, it would be done.

391. Nearly all the other works in our business (about 18 works, all near Manchester, and employing on an average about 200 men and boys each) work about the same number of hours as we do, 61 hours to the week.

392. JOHN BELL (Messrs. Dewhurst & Co., Broughton Dye and Bleach-Works, Salford).—I am manager for Messrs. Dewhurst of the bleaching and dyeing department, employing about 150 men, boys, and females, and 100 in the finishing department. We dye fustians, shirtings, and plain calico. For several years it has been the habit at these works to begin work at 6 a.m. and leave off at 6 p.m., with the exception of about two months and a half in the year, for a month or two at a stretch, just at one particular season, when our hours are from 6 to 8, with half an hour for breakfast, one hour for dinner, and a quarter of an hour or 20 minutes for tea.

393. It is found by long experience at these works that it is not desirable to work at any time later than half-past 8, as the long hours are detrimental to the health of the people, and do not tend to the profit of the employer. If they work longer at night and become fatigued, they cannot attend to their work the next day with the ability that they ought to do. The two seasons I allude to are spring and autumn; for fancy goods in spring, and heavy fustians and cloth in autumn. Some are for the home, others for the foreign markets. The foreign market is the one which occasions us most overtime by a good deal, being tied to time as to shipments. If work is absolutely required within a specified time for a certain ship, we often manage to put aside other goods that are not so urgent, which enables us to execute the order. This is a matter of management which generally speaking is not difficult. We have regular customers who come to us for a certain finish; this applies to both kinds of goods, chiefly to the fancy goods for shipping; and we accommodate those parties by getting their orders round. We have their stamps and marks which we put on here, and which require our particular attention and care.

394. We insist upon all our hands, bleachers, dyers, and finishers, coming punctually at the hour appointed, and find no difficulty in any of the parties being here, with the exception of a few drunkards, who are our greatest evil. While at work, all the hands go on without any interruptions except for meals, during the whole day. On Saturdays we leave off at 4, so that we actually work by our own regulations precisely the same number of hours as the factories. This has been going on since the factory regulation commenced in 1846 or 1847. This plan is much more profitable than if we went on irregularly, or worked more hours.

395. The cloth goes through the dyeing department all day long, to the stove. That which is finished at 6 p.m. is put at the stove immediately after, and the stovers have done half an hour afterwards. The cloth is left in the stove all night. The stovers come a little before 6 to have the stove ready for the finishing department; a quarter of an hour is quite sufficient. No boys or girls are employed in the taking down of the cloth in the morning; and only one boy at each stove, to pull out the ends of the cloth. We have two stoves. These stove-boys are wanted at 6 in the morning, so that in fact these two boys work 63 hours in the week.

396. If an Act were to pass limiting the hours from 6 to 6, it would require a little more thought from the manager to see how he could arrange in a matter such as this. These boys might not come till half-past 6, so as not to work more than the 60 hours in the entire week.

397. I think there ought to be some sort of elasticity in the regulations of the Act, because it would not do to stop the adult labourers, such as the dyers, in this case, for want of boys to pull out the pieces in the drying place. But if lads over the age of 16 or 18 were employed to do this instead of young boys, the difference in wages would be but a trifle for them, as we have only two so employed; or an old man might do it. [The man who hangs the last batch comes down to straighten out the ends after.—J. WARING.]

398. In the making up room we have a good number of young men, who make up the goods just as neatly as women could do.

399. Mr. CHARLTON, Blackfriars, Manchester.—We are calenderers, finishers, and packers of cotton and other goods. We employ about 130 to 150 men and boys. Our hours are from 8 to 8 with half a holiday on Saturday. There are about 12 other firms of calenderers and finishers in Manchester, all employing fewer people than ourselves. Their hours vary, but not much, seldom exceeding 60 hours a week, except when occasionally working overtime. Our habit is not to extend the overtime beyond a couple of hours, as we find that the workpeople are tired, and not able to do as much the next day. We work overtime when a vessel is wanted to be got off by a certain day. The merchants send us their goods to be prepared for that vessel.

400. If the proposed legislation were to be applied to us, it ought, in justice, to be applied to all merchants and packers. There are many of both in the same buildings as ourselves, and their hours are pretty much the same as ours. There are about 30 to 40 packers, who are not finishers employing about 20 men and boys, on an average.*

* Packers who are not finishers also do not employ steam machinery in any sense that would bring them under the regulations of the proposed Bill.

401. It is not the custom to employ females in these branches of business.

402. We make up all kinds of fine goods, muslins, and silks; and we find that young lads make them up as neatly as females. They require, however, somewhat higher wages. We do not like females to be mixed up in our different rooms with the men.

403. We stop an hour for dinner, and half an hour for tea.

404. We can only compete with the great mercantile houses who finish and pack (especially the latter), by being able to work the same number of hours as they do.

405. It is only lately that those great mercantile houses have commenced finishing. Before that, the trade was in the hands of the smaller capitalists. They have immense establishments, with ample warehouse room, where some of them keep vast stocks of goods. Those in our branch of the trade keep no stock of goods; we only finish and pack what is sent to us.

406. [The following witnesses, marked by numbers, are very respectable workmen belonging to calendering, and finishing, and fustian dye-works in Manchester and Salford; but they all expressed a wish that their names should not be given, as they were all apprehensive that they would be discharged by their masters if they were known to have been examined by me, and given evidence favourable to the object they seek to attain. I should not have inserted it were it not in entire accordance with that of all the other workpeople examined. They came to me of their own accord and tendered their evidence.] [Seven out of the ten have since allowed me to insert their names]

407. No. 1. THOMAS BRACKIN.—I work for — ———, calenderer and finisher, Manchester, employing about 100 hands. I went to work in 1826. I am on the committee of the Manchester Association for obtaining the short time Bill to be applied to the calenderers and makers up of cotton goods generally. We have about 20 on the committee.

408. We work from 8 a.m. to 8 p.m.; have an hour for dinner, and half an hour for tea, and leave off at 4 on Saturdays; with 20 minutes for dinner. These are our regular hours. The list I give you shows the overhours worked from July 29 to October 14. During that time nearly all the other hands worked longer hours than that. There are between 40 and 50 boys under 18, and about 50 men; no females. We work in some weeks till 12 o'clock at night for five days together, and till 8 o'clock on Saturdays. During that time, we have had as many as five in a week sick from the over fatigue. The boys often ask to be allowed to go home earlier.

409. We are paid weekly wages, and yet we often have little to do in the morning part of the day, and are oppressed with the quantity of work in the afternoon up to midnight. It would be much better for the master, as well as for ourselves, if we began at 6 and stopped at 6. The merchants would soon adapt themselves to the alteration, just as they have with regard to the Manchester half-holiday; and also to another alteration, which was this: The carts of the Hull carriers used about six months ago to draw off from the warehouses at 10, in order to get the goods upon the railway to go by that night's train. The railway company altered the hours of the luggage train, and now all those carriers leave the warehouses at 8 The same thing would have been done if the railway company had said that the carriers must draw off at 6, and bring their goods so much earlier. This shows that, if the law were to say what the railway people said, the thing would be done at once.

410. Those very long hours do not come so often with us as they formerly did, but we are always liable to them; and when they do come they are very oppressive and injurious, especially to the boys and young men.

411. The irregularity of the hours makes it very difficult for the boys and young men to get any opportunity of improving themselves in the evening. What happened to me happened, to my knowledge, to plenty of others. When I was 21, I wanted to learn arithmetic and writing, and took out a ticket from the Manchester Mechanics Institute, to attend for arithmetic on Wednesday evenings, and for writing on Saturday evenings. I paid my 5*s*, and found I could only go one night during the quarter to the arithmetic class. After that, I paid 6*d*. per week for three nights a week to a night school. I had to pay on the Monday night, and perhaps could not go again that week. I joined the reading room, King Street, Salford, myself, with four other young men and one boy, of the same works, but, with the exception of Saturday night, we could go there so very seldom that we gave it up; for when we might have gone, we were so tired that we were glad to go home and rest. All the schools and institutions of education and improvement are calculated, as to their hours, for workpeople who leave off at 6; so that we who work always till 8, and often much later (it was 9 and 10 the days you were at our works), have very little chance of profiting by them.

412. No. 2. HENRY BLORE.—I have been from 18 to 20 years employed at calendering and making up. The above evidence of the preceding witness is in every respect just what I am prepared to say from my own experience. There is no doubt that all the men in the trade would be very glad if this Bill were to be passed into a law.

413. No. 3. STEWART FLETCHER.—I have worked upwards of 16 years at calendering and finishing. I have worked for Mr. —— about 16 months at his calico works. He employs about 70 men and boys, and a few females; about 20 boys. We generally commence at 6, and the day is up at 6 o'clock at night, and the rest is overtime. We are making

full time now, but we are considered very slack. At first, when I commenced working here, the calenderers worked till 11 o'clock, a regular thing, for many a month. The makers up worked till half past 8. There were busier times than that, when the calenderers worked all night; that is, those that commenced at 10 o'clock at night worked till 2 the next day. There were only two or three boys among them. The makers up were making the same hours, in two sets also, the night set working the same hours as the calenderers; there were about 6 or 8 boys in that room. The men makers up were at those times often working from 6 a.m. till 11 p.m., and sometimes 12. At another place, when I worked long hours like these, I was ill a month from it. Sometimes there will be two or three at once off ill from the fatigue. At another master's, when I was with him two years ago, we worked very much the same hours, though I have worked there all night many a night. I often used to feel great fatigue, and I have known as many as ten off from it; and I remember once falling asleep on my legs as I was going home, and wakened with stumbling off the footpath. I have worked at four different places, seven years at one; and I can speak for all that have any reason about them, that they would be glad for the sake of their own boys that they should not be obliged to work in that way.

414. No. 4. CHARLES BLETHERWAKE.—I have been a maker up in one of the calendering, finishing, and making up establishments of Manchester for 12 years. I am very desirous that the hours of labour for boys and women should be restricted to 10½, and I believe that that is the general feeling in the trade. I shall be 23 this spring; I was 11 years old when I began to work at the making up. There were about 20 boys at the hooking, &c., at the same time as myself. Some were strong, and some were less so: they vary very much in strength. All the hookers had to do a certain quantity of work to every hour, from 6 a.m. to 7 in the evening; those were the hours of the day work; after that we were paid overhours. In the summer we were busiest, and are always so now. During these busy seasons we work on till 8, 9, 10, up to 12. It falls very hard upon the weaker boys. I have often seen them sleeping, on their legs, beside their hooks, and I have done so often myself. The weaker boys suffer in their feet, and their whole frame suffers. I have known at least eight in the last 12 years who have fallen into consumption, and died. The friction of the piece, in hooking, cuts their fingers and makes them very sore, their skins being soft. "Whose finger is bleeding?" is not an uncommon exclamation, as the blood stains the pieces; they then have to have their fingers tied up. In my place there has never been a female employed. The making up is all done by men. Some kinds of goods are too heavy for them. Fine goods can be made up, and are made up, just as neatly by men as by women. We ornament and tie with silk ribbon, and label, the very finest muslins, and all sorts of fancy goods that are done in the trade.

415. I prefer that my name should not be mentioned, or the firm I work for, as I should be apprehensive that they would discharge me, and I should be sorry to expose myself to the risk.

416. No. 5.—I work for Messrs. ———, fustian dye works, Manchester. Our regular hours are from 6 to 6, and we very seldom make overtime. Mr. —— does not wish us to work overtime. He employs about 70 to 80 men, and about 24 boys—no females. I have been upwards of 30 years a dyer. I have worked at establishments where they have worked from 4 a.m. till 10 at night for many nights together, but that is not very frequent now in the dye trade, though there are still masters who keep the work on till 8 and 10 o'clock. The Bill for shortening the hours for boys and females has been talked of many years by the men, and I think they would, as a general thing, be all very glad if it passed, as it would cause the work to be more regular.

417. I would rather be excused from having my name mentioned, as it might do me harm with my master.

418. No. 6.—I have worked eight years with my present master, in a fustian dyeing business. I am well acquainted with all the fustian dye works about Manchester and Salford. Out of the last, ten masters make very little overtime with the men, their hours being from 6 to 6. The three or four others do make overtime with the men occasionally, not very often above two or three months in summer. Ten or twelve years ago there used to be a great deal of overtime at all these works, but it got a deal more regular after the Factory Act passed. The men made a rule among themselves, which led to overtime being do ne away with; and we do quite as much work now as we did before. Some of the masters enlarged their works, and took on more men, when the hours were reduced. The masters did not suffer from this, and in a general way are prosperous. It would take no trouble at all to extend the regulation, and make it the law that the boys and females should only work from 6 to 6; for the work could be stopped at any moment without taking any harm.

419. In all these works, the boys in the fustian dressing room are more subject to making overtime than the dyers; they have to prepare the work for the dyers, and the dyers can get on with their part quicker than the boys. It happens very often through all the year, in dressing departments, that the boys work from 6 to 8, 9, and 10, and even 12. It is a bad atmosphere to be in so long, full of dust and lint, from the fustian cutting. By putting down a trifle more machinery, the masters might prevent the boys working overtime; and, even without adding to the machinery, it might be avoided by keeping more cloth dressed ready for the dyers, as there are often times when it might be done. A very little management would arrange all that.

420. No. 7, GEORGE SMITH; No. 8, DAVID JOYNSON ; No. 9.—We work at the calendering and making up department of a large firm in Manchester, and have worked from eighteen months to six years there. Our hour in the summer months are often very long, sometimes we begin (say) Wednesday morning at 6, and work till Thursday night at 8; and once until 10. For nine or ten months in the year we begin at 6, and seldom leave off before 9 and 10. There are 60 men and 28 boys, all of whom work the same number of hours. We are all most anxiously for the Bill ; the boys are subscribing a halfpenny a week, and the men 2*d.* and 3*d.*, to the committee of the operatives, who are endeavouring to promote the Bill.

421. No. 10. JAMES DODD (aged 24)—States that "three years ago we made 96 overhours in one fortnight; 64 hours a week being our regular hours ; making 65 + 65 + 96 = 226 hours in a fortnight. I felt very poorly after that."

422. [All the above witnesses mentioned many cases within their own knowledge, of boys and young men having been ill and off work, and who have died, from the long hours of work.]

423. JOHN WARING. [For previous evidence, see p. 2.]—I have seen the evidence given by some of the masters and the merchants, and I wish to make some observations upon it. There is no necessity, under proper management, for any one set in bleach-works to wait for another. It can very seldom happen, that a bleach-work is quite bare of cloth ; there is generally a stock in the grey room, when the markers go on marking ; and they can work a deal faster than the dressers can get through with it, so that the dressers have never any occasion to wait.

424. In the case of a master wishing to make a little overtime after the Act passed, he might, in the making up room, send away all the females and boys under 18 at 6 o'clock, and if there were (say) four men makers up, two of those might go on working the cloth instead of the females and boys, and the other two might make up. Men very often both work and make up, and can do the latter as neatly as the women.

425. The master might also, on such occasions, employ an additional hand or two in hooking, so the men might make an hour or two overtime in making up, when there was a "push."

426. With shorter hours the finishers and others would get as much the year round, because these busy workings cause a deal of slack workings.

427. I do not think that, as a general rule, the merchants make much ceremony about changing their bleachers, even for the finer sorts. Some few of the bleachers have got a name for particular finishes, and the merchants may be tied to them for those; but as to the great mass of the trade, shirtings, jaconets, fancy goods, beetle-cloth, twills, and strong calicoes, the finishes for these can be done equally well at all places ; and if one bleacher will do it a trifle cheaper than another, the merchants will go to that bleacher.

428. One of the great reasons of the long hours in the finishing departments is, that the bleaching machinery has been improved faster than the finishing, so that as much cloth can be bleached in 10 hours as it would take 16 to finish. But many bleachers have already improved their finishing machinery, and those that have not might get through the finishing in 10 hours if they would take on more hands or improve their machinery.

429. It requires only a very short time to make a man a good workman in the bleaching business. One of the bleaching masters told me last week, that he could take a man from a stone-quarry, or a carter, or from any other common labour, and make him a good bleacher or finisher in a few days' time. It is only the making up that requires a little teaching and practice. The lads in the dye-works also have very simple things to do, and can be soon learnt.

430. When the people work long hours, and so leave off late at night, they come late the next day, and seldom do much before 7 or 8, or even 9 in the morning ; so that if an order were wanted quick for shipment it could be got round quite as soon by working from 6 to 6, because the people would work cheerfully and regularly all the working hours.

431. Sometimes now, in the very slack periods, the hands leave the masters ; and then, when the "pushes" come again, they have difficulty in getting hands. It would be better for both parties if the work went on regularly.

432. We do not think the masters would discharge the females or boys if the Bill were to pass ; they would not like to pay men 16*s.* or 18*s.* a week, when they can get females or boys for 7*s.* or 8*s.* It was just what the factory masters said ; they said if the Factory Bill passed they should discharge all their boys and women.

433. We are not afraid of foreign competition ; there is no danger of our losing any part of the trade for such a restriction of hours as we propose. We have great advantages here over the foreigner. First, machinery is cheaper, because made close by. Then, coals are much cheaper, and the large bleach and dye-works use 50 tons a day, some considerably more, costing about 3*s.* a ton at the pit's mouth, and 2½*d.*, 3*d.*, 6*d.*, up to 1*s.*, per ton for delivery ; but generally some of the largest masters raise their own coal. Then, we have plenty of, water-power, and water for the bleaching purposes. Then, we have got all the skill that is wanted in the trade. Then, we are close to the great markets, with conveyance by railways to nearly every bleach-work, and so from them back to Manchester and Liverpool,

and that in a few hours, and in a day's time to London if they are wanted there. We think that the great bleachers are much more afraid of competition at home from the smaller bleachers, than from abroad.

434. Two or three years ago great improvements were introduced into the bleaching machinery, so that orders which before took a week, can now be got through, at a "push," in three or four days, according to the weight of the cloth per piece. If, therefore, an order were to come to the merchant, a repetition of a former order, to be executed (say) in four days, or omitted altogether, the bleacher would have to put aside some work which was not pressing, and turn all his machinery and hands to that; and he can now do it in four days, whereas two or three years ago it would have taken him six. So that the merchants in the foreign market, who know this, now want their orders executed in four days, instead of six, before these improvements. No order would be lost, by the limitation of hours; it could be executed by steady work between 6 and 6

435. If Mr. Hardcastle's plan, or anything like it, were to be adopted, of allowing work to be done by females and boys between half-past 5 and half-past 8, but only 60 hours a week, the females and boys might have done their 60 hours, in less than five days. That would be no benefit to the masters, because the machinery would be standing, and the drugs losing their strength, the rest of the time.

436. The long hours at the bleaching at Mr. Hardcastle's are occasioned by his not having the new machinery; and all his bleaching is done by adults, who would not be interfered with by the Bill.

437. The bulk of the bleaching done in Ireland of cloth sent from here, is of a kind not much done here. It is of cotton cloth bleached and finished in Ireland, and stamped as if it were linen; and going from Ireland, it is taken without a doubt to be Irish linen. It has been much spoken about in the trade that this kind of work has done it much injury.

438. The Table of the average working hours of a large bleaching, finishing, and dyeing work the year through, [see Appendix C.] shows just what we say, namely, that, take the year through, all the work that is now done can be done within the time we want, namely, 10½ working hours, and the Saturday a half holiday, like the factories.

439. Referring to what is said by Mr. Bridson (page 22) that to meet a 10½ hours Bill he would have to employ 16 per cent. more capital, he and several others have already done so, and much more. Within the last two years Mr. Bridson has put up a large building for calendering, mangling, and drying, and improved other parts of his works as well. Mr. Slater, Mr. Cross, Mr. Blair, Mr. Eden, who are all principal bleachers, have laid out large sums in improved machinery and additional buildings, all within the last two or three years, and are quite prepared for a 10½ hours Bill.

440. The dyers about Bolton, and also about Manchester, as it is, generally work from 6 to 6; about Manchester, they have a half holiday on Saturday; at Bolton, they leave off at 5 on Saturdays.

441. If, in consequence of the Bill passing, some boys and females were to be discharged, the boys would have no difficulty in getting situations; boys are much called for in all these manufacturing districts. Females are very much wanted too; even in the worst times as their labour is cheap it is much wanted.

442. However many you were to examine, through the bleaching and finishing, and the dye works, it would only be a repetition of what has been stated by the witnesses already examined; they all tell one tale; the masters say they would be a little inconvenienced, and the operatives state that they would be very much benefited.

443. Mr. Dorrington (Evidence, p. 35) refers to the present great demand for a certain low class of cloths for the Levant, in consequence of the war; and he fears that, if we had a 10½ hours Bill, a portion of the present demands would not be executed, and would be lost to this country. This might be so for a short time; but if the demand continued, other bleachers would soon know it, and turn their minds to producing the same kind of finish that those two or three now do with that class of goods. There is no likelihood, even if any part of such cloth went out grey, that it would be bleached and finished in the Levant, as it would take a month to bleach, and could not be finished without calendering machinery, &c., which they have not got, and which would be expensive for them. If it is possible for two or three bleachers to finish in a particular way suitable to the Levant market, it is surely possible for more; and would surely be done if the demand, instead of being only brought on by the war, became permanent.

444. Also, if the rebellion in China were suddenly to cease, and the demand for goods for that market, which has been slack, were to rise up again, and seem likely to be permanent, the bleachers, &c., would extend their machinery to meet it, supposing they could not do so after having the hours for females and boys limited by Act of Parliament. The bleachers should not forget that a deal of their expenses would be curtailed under a 10 hours Bill, by less drugs being necessary; and their machinery would be running always to advantage, instead of now running sometimes many hours for a few hands, and gas burning also; and all the clerks and servants, including managers, better able to attend to their work than they are now.

445. As for orders being lost to the Peru or any other market, as Mr. Dorrington fears, by reason of an order not being able to be executed for a certain ship, we do not fear that any such markets would be lost; for if the trade were likely to continue from there being a

regular demand, they would get the goods first or last. That argument is the same as this: if a boy was selling oranges in a street in Manchester, and was away when a man went by who wanted to buy some, it does not follow that fewer oranges would be sold; the man who wanted some would find them at the corner of some other street. So it would be with such a market as Peru, mentioned by Mr. Dorrington. Other merchants might have received orders to send out goods to that market, and would get them from some other bleacher, though not the one employed by Mr. Dorrington; and the supplying of them would not be lost to England.

446. We do not think that the bleach-masters are so much at the mercy of the foreign markets as they themselves believe. They have much more to encounter from their competition with each other. We should not listen to any proposition for a compromise of what we are asking for, as we are asking for nothing out of reason. If there were to be a power of extending the hours beyond 6 o'clock, it would be nearly always acted upon, and we do not see why we should be required to work longer hours than other trades. Many trades regulate themselves to 10 working hours a day, such as the joiners, mechanics, smiths, engineers, painters, plasterers, masons, watchmakers; in fact, almost all trades; and we should have been the same but for the number of women and children in bleach and dye-works. The masters can, through the parents, compel the females and children to work those extra hours, but they cannot compel the men, where the females and children are not wanted with them. The law is, in reality, required to protect the children and women against their parents, &c.; but it must be borne in mind, that the parents are compelled to send them by their employers, the master bleachers, &c. With these the custom is established of yielding to the masters in our trades; and besides, boys and girls are not required in the others. Nothing but legislative interference can protect the women and children, as has been found in the factories and print-works.

447. Ellen Jackson (Messrs. Ridgway's Bleach and Dye Works, Bolton).–I have been at work five years in the pasting department. The hours generally are from 6 a.m. till past 8; and when we are busy, till 9. Sometimes we are off half a day in the week, and sometimes a whole day. I am often very fatigued, and last year I was off six weeks with a low fever brought on from fatigue. I should, indeed, like the hours to be shortened.

448. [Alice Howarth gave the same account of her hours of work in the same room, and said they very seldom left off as early as 6, it was oftener between 7 and 8. Her feet very often get raw.]

449. Anne Caldwell (between 16 and 17, very undersized).—Works often till past 6 from 6 a.m. Has sore feet sometimes; her father is working here, and earning about 1*l.* 1*s.* per week the year through. [She looked pale and thin.]

450. Mary Ann Arthur (under 13).—Has been at work in the room about a year. [Very thin and pale.] Her father earns 15*s.* a week, and pressed the manager to allow her to work.

451. [The rest of the girls in the room (six) looked strong and healthy; also the nine boys.

452. The hours generally from 6 to 6, sometimes 6 to 7 and 8. Sometimes they do not come till 7 or 8 in the morning.

453. In the making up room for the fancy department (light muslins, &c.) the hours are from 6, 7, and 8, seldom later than to 6. Two girls about 16 and upwards, and six girls about 12 and 14, all healthy looking. Two females were in the clamping-room (very heated atmosphere), and were succeeded by two others, who worked all night.]

454. Mr. John N. Slater (of the firm of G. and J. Slater, Bleachers and Finishers, Dunscar).—We pay our bleachers by the day, and they never make ten hours a day, though sometimes a few of them may have to stay later than 6 o'clock, or one or two may come before 6 a.m. and leave off before 6 p.m. The finishers are all on piece-work, and their hours are irregular, beginning from 6 to 7: but when individuals are kept later for some purpose, they come to work later accordingly in the morning. We do not compel them to come punctually, as we get our work done in the time it is wanted. When we are busy, they work sometimes later; but, as a rule, at these works the females and boys are not pushed to get through their work rapidly, they generally take it easily, and are obviously in good health.

455. My experience is, perhaps, as great as any in the trade, as I served my time as a working man. My principal objections to interference by Act of Parliament with the labour of women and children are, that we cannot regulate the quantity of work that we have to do; next, that we wish to have the power of working over hours, especially if anything goes wrong with the machinery, or water runs short; but if we were "to stand over them," we could get the work done in a much shorter time than they now take to do it in.

456. Our people can all read, and all can write more or less. We have a lending library, and the books are much read. We have also a public park, and various amusements are much entered into by our people.

457. MARY ANN SMITH.—Last Saturday it was my birthday. I was 12 years old. I have been working here going on three years; sometimes cutting for the plaiting machine, then hooking, and now doubling and hooking. Most times I begin work at 7 and leave off at 7; that is, when we are slack. When we are busier we begin at 6 and leave off at 7 and 8. In busiest times we begin at 6 and go on till 10, and sometimes 11, as we have for the last week,—perhaps ten days. Monday night I went on till half-past 12; on Saturday we stopped at 5; on Friday night we stopped at half-past 11, we began at 6. I came here two months before races (Whitsuntide races) nearly three years ago. Six times in that time, I have worked from 6 in the morning till half-past 2 the next. Once I worked from 6 one morning till 6 the next morning. My father works in the stove,* in the next room. I have to rub my instep every night before I can get my clogs off. The skin cracks, and I cannot abide sometimes. One of my fingers is gathering from being cut by the selvage, and the other is running. The last time was last winter. They are worst when I am hooking, and they wear through.

458. AMELIA WOOD (15 next July).—I have been at this work (hooking) about three years. We oftenest begin at 5 or 6 in the morning and oftenest leave off at 11 or 12, except in the slack times; we are not often slack. Sometimes we do not leave off till 3 or 4 in the morning; it was not so very long since. My fingers are often very bad; the cloth wears them through. My feet are sore oftenest in the warm weather.

459. [All in the room work the same number of hours, makers up and stampers; three women, 15 girls from 10 up to 16, and seven men.]

460. [MARY GREENHALGH gave a similar statement to the above; said she had worked last Friday night but one, from 6 a.m. till half-past 2 the next morning; it was a good while since she worked so long before.]

461. MARY ANNE VICKERS.—I am going on 16. I have been employed at this work three years the first Monday in March. My fingers are sore when we are busy, and my feet are sometimes sore; and my ancles are sometimes painful, and they do not swell much only in summer.

462. MARY GREENHALGH (Mr. Whowell's Bleach-Works, Two Brooks, Bury).—We start at half-past 6 a.m. and leave off at 11 at night. This has being going on for two years. On Friday night a set comes on at 10 o'clock and works till Saturday at 5. The set that comes on Saturday morning at 6 works till Saturday night at 12; they start again at 1 o'clock on Sunday night. This has been so for two years, all the time that I have been here. We have in this room nine women and 21 girls, nine of whom are under 13. All these work the same number of hours. All the girls are always complaining of their legs aching and their feet being sore, and some are frequently off from illness; there are always one or two off in consequence of long hours and working at night. I have talked to them many a time about the hours being shortened like the factories. They wish that time would come. They said that, if they did earn less, the money would do them as much good as what they earn now, as it takes so much better meat, and also medicines, to keep them something like up to their work. They would have time also to work for themselves at home, in doing house work and making and mending for ourselves. We have now to pay people for cooking for us, and bringing our meals, all which we could do ourselves with the short time, besides being much more healthy; and even on the Sabbath they lie in bed often till dinner hour, they are so tired after the week's work; so that we have very little time to improve ourselves, either Sunday or week days. The little ones very often fall asleep standing to their work. They fall fast asleep standing before their hooks. I have to keep them awake; and my heart is so sore for them, that I cannot speak to them. I have worked at bleach-works, in the finishing room, twenty years, and it has always been so in all the works where I have been.

463. MARY LAW.—I am going on 13. I have been working here near two years. My feet were always sore in summer, they were blood raw at bottom, and my ankles are swelled with a deal of pain.

464. [All the women and nearly all the girls, who had worked here any time, said they had had swelled ankles and sore feet.]

465. MR. WHOWELL.—Mary Greenhalgh has been off work from time to time, she was three or four days off work.

466. [She stated that she had been off work once from having the quinsey, and once for two days, then one day, and then three days; and the year before about the same.]

467. MR. WHOWELL.—We have from 14 to 20 young girls tambouring (marking figures on muslin). They are sitting down all day, and have no fatigue; they go to their dinner for an hour. They generally come at 7 and 8, and generally give over at 7 or 8.

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* Average earnings, per week, 24*s*., the year through.

468. I started these works about four years since. We go on night and day whenever we have work. It has happened that we have been very slack for a fortnight, and have had nothing to do. We have gone night and day for the last 12 months. I have about 220 hands. Of these, between 30 and 40 are females, and 10 to 20 boys.

469. The first set begins on Monday morning at 2 o'clock a.m. and works till 2 p.m. They are ordered to come at 1, but they come irregularly.

470. We have more than two full sets, but not three sets, so that the 24 hours are divided between rather more than two sets.

471. This applies to all the people employed.

472. The evidence of Mary Greenhalgh has been read to me, and my attention having been called to the statements of all the other girls in the room made to you, I positively contradict it.

473. Oliver Ormerod.—I am book-keeper to Mr. Whowell. [His office is close to the making up room]. The first set in the making up room begins work at 6 a.m., and in a general way they make 15 hours a day. When I leave the office at 8, 9, and 10 o'clock they are still there.

474. Part of the second set will come at 2 o'clock p.m., and they will make about the same equal time as the others. I should say so, but the exact hours they leave off I do not know.

475. Mr. Whowell.—I should be sorry to make any misrepresentation as to the hours, but I do not look after them myself; I leave it to my manager, who at present is not here. The hours are a matter of arrangement among themselves, and it does not matter to me a halfpenny whether they work short hours or long. If their hours were reduced, we must employ so many more. This is the top and bottom of it.

476. [I have no doubt that Mr. Whowell was not aware, until his attention was called to it as above, of the exact number of hours that his work-people were actually at their work. In several other bleach-works I found the same thing to be the case, the hours being more within the cognizance of the manager.]

477. Mr. Whowell having mentioned to me that he had established a night school, and fitted up a room for Divine Service for the people in his employ, I visited the building with him; and took down upon the spot the following, which is very creditable to the parties concerned.

478. We have a night school for our children, and a Sunday school. The people are healthy; and we are careful to prevent any improprieties going on in the works.

479. I have fitted up a room for an evening and Sunday school, in which also we have Divine Service twice on Sundays, and three times on the last Sunday in the month. The room will hold 100 comfortably, and we have had 140; the general attendance is about that. Sometimes we have a neighbouring clergyman to perform the service, but on other occasions it is performed by Mr. Wallace, one of my clerks, who also superintends the Sunday school. Mr. Wallace also delivers a discourse every Sunday afternoon, and an extra one the last Sunday in the month. Many of the parents of the children come. We have a good supply of books, and we take boys and girls from the alphabet to the Bible. We have a seraphine for aiding the singing. At the night school, the boys come two nights, and the girls two. They learn reading, writing, and cyphering; and some get as far as fractions. [The regulations for the school have been very well drawn up by Mr. Wallace.]

480. Mr. Sedden, Breightmet Bleach-Works.—I have been engaged in the bleach-trade for a considerable number of years. One of my principal objections to legislation regarding the bleach-works is, that our machinery would be liable to the inspection of persons who do not understand machinery; also of persons locally connected, who might be open, without being conscious of it, to local influences.

481. The inspection of the machinery might be made unobjectionable, if a practical and competent person were called in, from a distance, to judge whether the machinery was dangerous which an inspector represented to be so.

482. I am the more inclined to this opinion now, because of what has been going on lately with regard to the machinery of factories. It is unpleasant to be brought up before the magistrates by the opinion of gentlemen not practically versed in machinery.

483. As regards the limiting the hours of labour for females and boys, our practice always has been not to go on later than 10; we profess to begin at 6; but in cold weather it is difficult to get them at work so early. My opinion is, that by working steadily from 6 to 10 we get through more work than those do who sometimes work their people for 24 hours together for one or two days; they must be soon exhausted, and even with two sets they often work 16 hours each set; half a set working with the previous set.

484. According to the experience of my works, we go on at these hours (from 6 or 7 to 10), sometimes a week only, sometimes a month, sometimes two months; seldom for two months together without intermission; at other times of the year, the work varies from 6 to 6, from 6 to 8, or from 6 to 10.

485. Our meal times are, half-an-hour for breakfast, an hour for dinner, and half-an-hour for tea; but we are not particular to a few minutes, so that we seldom begin work till a quarter-of-an-hour late after each meal.

486. It does not follow that all the girls and boys are going on without interruption the whole day; sometimes they are waiting for the other sets. Supposing the hours were limited, we should be particular not to let them lose time after meal hours, and we should arrange to keep the makers up always going with cloth ready from the sets before them; so that no doubt there would be much more work done per hour.

487. We do not like these sudden orders from manufacturers (which are almost exclusively for the shipping trade), which make us work in fits and starts, and I would much sooner that the trade was more regular. If the hours were to be limited, we might not be able to get through an order in the same time as we do now; but very often these small lots, to be done in a short time, cost us more in extra coal, overtime to the day hands, gas, &c., than we get for the bleaching. We might, if the hours were limited, sometimes lose a portion of an order; we should be cautious in taking cloth that we knew we could not get through, we should only take what we knew we could return in the time specified by the merchant. The other part of the order, or the whole of it, might go to another bleacher. But another time we should come in for the portions of orders that another bleacher could not do. If the hours were to be curtailed, we should all probably be kept more regularly at work; and if the merchant still wanted an order executed, which would oblige us to work unreasonable hours, and employ adult hands, an extra price would be asked.

488. An extra 10 per cent. upon the bleaching, which would be an important rise to us, would be a mere trifle compared with the selling price of the cloth, it might be one per cent.. But the price of cloth in the Manchester market varies more than that almost every week; sometimes as much as five per cent., and more than that, when the markets are in an excitable state.

489. I should wish to add that, notwithstanding the occasional long hours, the health of the people (men, boys, and females) employed in bleaching-works is generally good. I must nevertheless admit, that for the young, especially for growing girls, those, at all events, that are not the strongest, such long hours as they occasionally work must be, in many instances, prejudicial. The shorter hours would be better for them if we could have them regular, and also, I think, better for the employers. We should have less wear and tear of machinery while a few hands only were at work.

490. There has been a great improvement in this neighbourhood since I have known it (upwards of 20 years) as respects education and the desire for it, and in the habits of the people, and shorter hours would give them the opportunity of still further improvement; a certain proportion of those now better inclined would take advantage of it, and it would open the way to a still further improvement in these families as they grow up.

491. Elizabeth Edge.—I am 14 years of age. I have worked here four years. Three months since I worked two nights and two days. I slept four hours the first morning, and not at all the next night. I worked twice in the fancy room, hooking, all night long about five months since. I have very often worked till 12. My feet and ankles are often sore. If you could have seen my feet last night, they were swelled all over.

492. Mary Brooks (12 years old).—Worked "when the skin was off my feet very badly."

493. Mary Rothwell (20).—I have been very plagued with my ankles swelling lately.

494. [There are 13 females in this room; all gave a very similar account of themselves, and said they had been long "waiting for" the short hours. On reading over the evidence of the last three witnesses to the following witness, he assented to its correctness.]

495. Richard Massey.—I am at the head of the finishing department. I have been in this department of these bleach-works 34 years. Our hours here are, for nearly six months during the year, from 15 to 16 hours a day. We are one of the most regular places in the trade. I have under me in this room five men, six boys, and thirteen women and girls. We all very much want the short time Bill passed. They have all paid their 1*d.* a week to help to get it. Every one says they would like it, though they earned less. They will say the same everywhere. Though some of them look healthy, others do not; and they show the effect of the long hours. I see them go worse by degrees, and look pale and sickly, like some of these. When they cannot stand the work they have to go, and put themselves to something easier. The strong ones stand it for a long time.

496. They must all have an extra meal when they work from 6 to 10. If they have tea at 5, and then go on working from half-past 5 till 10, they must have something before they go to bed. That would be saved by the short time; and you cannot eat the same common food as you can when you work shorter hours. It makes several shillings a week difference to every young girl, and indeed to all of us.

497. My firm opinion is that, if we had the short time Bill, we should get through nearly as much work in the week as we do now with the long hours.

498. [In the clamping (drying) room, which is necessarily very warm, two females work from 6 to 8, and two more succeed them and work all night. One of the former said they required five meals a day.]

499. Messrs. Hollins & Co., Tootal Bridge Bleach-Works, Bolton.

500. We employ about 80 hands; of these 15 are females, and 16 boys under 18. I have been for 30 years engaged in bleach-works, and for the last four years as manager.

501. Our hours of work for the last twelve months have been from 6 a.m. till about 10 at night, generally for all, large and small; sometimes earlier, especially on Saturdays, when we stop, if possible, at 5. I do not like longer hours, and I think that they are not profitable either to man or master. About 9 o'clock the females and boys begin to show they are not worth much for work. I have not interfered to prohibit the exercise of their free will, or to subscribing, as I believe they all do, to the fund for getting the short time Bill. I think there would be some difficulty in working a ten hours Bill, particularly in such a place as this, because of the heavy machinery. In consequence of the weight of the machinery in all bleach-works, it is liable to break and get out of order, and to cause stoppages of an hour or two a day. The factory machinery, being so much lighter and more accurately made, is not so liable to these accidents. I think if a ten hours Bill passes, we ought to be allowed to make up lost time. If, for instance, we lost five hours in any one day, I should prefer being able to make this up by an hour a day; I think it would be better than being allowed to make it up all in a day, because it might lead to overworking the hands.

502. A ten hours Bill might also be very injurious to small works like this, unless we could extend them sufficiently to make up for the loss of hours. Five or ten per cent. upon a paying price for bleaching, &c., such as we have in good times, might enable us to meet the difficulty.

503. We have no very little girls here; where I worked formerly, I used always to send the little ones home at 8 o'clock. I am very particular in watching to see if the hours of work have a bad effect upon their health; and if it appears to be so, I send them home for a few days. All our young men are very well in health. It is very seldom that any of them are ill. If they should be, they leave work for a little time, and come back to it.

504. Lydia Nightingale.—Eight years here. Ankles often swelled, and feet often so sore that the skin comes off with my stockings. My sister has been off work many times, ill from the long hours.

505. Ellen Beake (16).—I have often been off my work; the doctor said it was from my working such long hours.

506. Sarah Settle (15).—Ankles always swelled in summer.

507. James Edge.—Had been off his work a little before Christmas, for five days, "from the work."

508. James Street.—Off a week since Christmas, "from the hard work."

509. [All the rest, when I asked, gave a similar account of themselves, and they all said they wished for the short time Bill "very much."

510. No young boys in the bleaching department. One only below 14.]

511. Mr. John Whitehead, Elton and Walmersley, near Bury.—We bleach, dye, and finish heavy or strong goods. We employ about 300 hands altogether. At Walmersley we have an establishment for yarn-bleaching, where we have about 60 to 70 hands, of whom about 25 to 30 are girls and women, and about twelve boys. Here we have only about ten females, and about 30 to 40 boys. Our hours of work for the bleachers and finishers, from September to March, are from 6 to about half-past 8. This occurs three nights a week generally, on Mondays, Wednesdays and Fridays. On Tuesdays and Thursdays we work from 6 to 6, on Saturdays we stop at 4. Here we work by the day.

512. At Walmersley, the bleachers (men and boys) do not make much above ten hours to the day, and two for meals, i.e., from 6 to 6; the girls, about eleven on an average, from 6 to 7. Some work from 7 a.m. till 8. p.m. This is in making up the yarn. It is very nice easy work for females.

513. We object very much to any limitation of hours for the females or boys, as we think it would be very injurious to us, in consequence of the irregularity of the orders. In the spring and summer months we may not have the hands half employed.

514. In the dyeing department we are at work in busy times generally from 6 to 9. In this department we have about 20 to 30 boys. We might be much inconvenienced by a ten hours Bill being applied to the dye-works, because, if we find that a piece does not come up to pattern, we have to re-dye it, and time is therefore lost. The order could not be executed within the time we had engaged to do it. The goods would have to wait till the next day if we were limited to time. Sometimes, in a case like that, we should have to work till 9 or 10 o'clock to complete them. This is not a very frequent occurrence, but what we are always liable to.

515. I think if the Bill were confined to regulating the hours of females only, it would not, as far as we are concerned, do so much harm; we should substitute boys for them, where it was required. We should have to dismiss only a very few girls.

516. In the making-up department at Walmersley, where we employ most girls, we should have to take on more of them. We have nearly 30 girls in that department. We should only have to substitute boys for the ten girls who now do the stitching. On an average, in our busy time those ten girls are at work only three days in the week for the long hours, i.e., from 6 till half-past 8 or 9. These are governed by the machinery; they stitch the cloth for that, so that as we cannot speed the machinery any faster, we cannot take on more hands there.

517. If we are to have an Act we should better accommodate ourselves to it by coming to the stinted time gradually; as, for example, the first year after the Act passed, the hours might be from 6 to 8; the next year, from 6 to 7; the third year, from 6 to 6. That would give time for orders from abroad to be regulated by it. It would be less felt by the trade than if it came all at once. We should prefer that the orders should be more distributed, so as to give us less slack work.

518. A change to the short hours, including the boys as well as the girls, would work very badly for a time; it would put us to a great deal of inconvenience and expense, but it is not an insurmountable difficulty.

519. AMELIA FARNWORTH and ALICE WOOD (Mr. T. Cross, Bleach-Works) said, they worked generally from 6 or 7 to 8 or 9; when they were busy, a few times from 4 and 5 a.m.; and that they had never been off work for sickness, or had had sore feet or swelled ankles.

520. MARGARET RADCLIFFE said, that the hours were the same as the above, but that sometimes she could rest for ten minutes or a quarter of an hour during the day. She had been off work very little. In summer she sometimes has sore feet. She wears clogs, and is better when she wears shoes instead.

521. BETTY FARNWORTH.—Had never been off her work, but has had sore feet in summer, though she sometimes wore shoes. She would like the short time Bill though she would earn less.

522. ELIZA PENDLEBERY—Had never been ill or had swelled ankles or sore feet, but thought the short hours would be better for them.

523. SARAH SOUTHWORTH.—I superintend the stretching in the calendering and mangling department. I have three girls under me. The hours for the last six or eight months have been from 6 till 10 and 10½ and 11, according to the work. All in this place begin at the same time and go on to the same time. We have very seldom any leisure during the day. We have to work very hard all the day through. I have gone home many a time for the fatigue from the long hours. It is not from the damp house, but from the long hours. I have been here about 12 months. I am 40 years of age. At first when I came we had very little work, and used to go home at about 4 in the afternoon.

524. [There are five boys in this room and seven men.]

525. JAMES THORNTON.—I have been here two years. When I first came we had not work for more than two or three hours a day for about 12 months. I used to earn 2*s.* and 2*s.* 6*d.* a day. Then we began work from breakfast time to 5 o'clock for about three months. For the last nine months the hours have been from about 7 till 10. We keep agate all that time except meal times. Two or three times last month we have had to stop two or three or four hours or more waiting for cloth, and had to fetch those hours up; we are fetching some time up now, and work till 10 or half-past 10 and 11, never after 11.

526. I should not like the short time because, if we could not have worked after hours lately, we should not have earned more than 3*s.* for a whole week. We have to work after 6 in consequence of waiting for the cloth. This slack time, when we could have earned only 3*s.* for the week, may have happened from the frost or from something going wrong.

527. [No females or boys employed in the clamp room].

528. WM. FARNWORTH.—I superintend the crofters (bleachers). We are three men and nine lads. We can generally get through, between 6 and 5 or 6 and 6 (when we are very busy, to 7), all the cloth that can be finished in a day. It would be very awkward for the boys to be obliged to be stopped at 6. It would be most awkward when we had to stop for cloth from the railway for a shipping order, or at a slack time when cloth might be sent us and wanted back in a few days. But when we have cloth in store ready, we could arrange the hours so as to get through the day's work by 5 o'clock. This is the common state of things, the others are exceptions. I would rather have time to look after the cloth in the bleaching, it is likely to be better done than when we are pushed.

529. JAMES KAY (Messrs. J. Smith, junr., & Co., Great Lever).—I am foreman of the making-up and packing.

530. We bleach and finish the cloth for Messrs. Horrocks, of Preston. It is chiefly for the home market. We are not much employed for the shipping business. Our hours, when we are busy, are seldom longer than from 6 to 8, sometimes as late as 10. We are not particular as to the hours of meals; we may calculate the meal-time at 2½ hours. In working those hours, from 6 to 8, while they are at work they keep on pretty quickly; they seldom have to wait one for the other. They do not come punctually at 6. Many of them do not begin till half-past 6. There is generally half an hour lost after the time fixed for starting.

531. If the short time Bill was to pass we should make them all come punctually, and only have 1½ hour for meals, so that we should save two hours. Taking the average of last year, they did not work more than 10 hours.

532. Ann Watson.—I came at 3 o'clock on last Friday morning, and worked till between 8 and 9 on Saturday evening. All of us were working the same time, 14 girls. I am nearly 14. I have been here two or three years. It is a great while since I worked so long. We worked till 10 o'clock on Thursday night, and came at half-past 4 Thursday morning; on Wednesday I came about 5 o'clock and worked till 9 or 10; on Tuesday it was, I think, 5 o'clock in the morning when I came, and we worked on very late that night. We have often been agate this way.

533. Alice Mason.—We came at 4 o'clock on Friday morning and worked till about half-past 10 that night. We came again on Saturday morning at half-past 3 and worked till about 8 on Saturday night. We have at times, when we were busy, been agate as long. I always have sore feet in summer time from working so long. My legs ache with standing so long, and going so fast with hooking.

534. Ruth Pollet.—I am just turned 13. I came to work on Friday morning at 3, and worked on till 11 at night. On Saturday it was half-past 3, and we left off at 8. On Thursday it was half-past 4, and went on till 10. I was doing the work (hooking) quick all the time.

535. Martha Norris.—I am going on 22. Worked the same hours, and had often done so here before.

536. Anne Stone.—I am 19. I have been here three years. All this last week nearly we have been working those long hours. The week before it was pretty nearly as long. My legs ache much with the work, aye very often; sometimes more than other times; and my feet are often sore winter and summer.

537. John Makyn.—I am 25. I have worked here about 15 years. The long hours we sometimes work make us thin, and are not good for our health. I do not think but that the short time Bill would do us good.

538. Catherine Horrocks.—I am turned 14 on Saturday. Last Saturday, Friday, and Thursday, and Tuesday, and Monday, I came to work at half-past 4, and 4, and 5, and worked till, I cannot exactly tell, but it was 9 and 10, and it was 11 on Friday night.

539. Thos. Makyn.—I shall be 18 in July. The hours that the little girls say they worked are correct. I worked the same with them. It is not often that we work so long. It is commonest to work from 5 till 6, 7, 8, 9, and not often later. I should like to have the short time Bill because it would be better for the health of the lads. I have not been ill above once or twice; it was a good bit since.

540. James Kay (having heard the above evidence read over).–That of Catherine Horrocks is the most exact. The others have not kept in their minds so exactly the precise hour at which they have come. The hours have not much varied for the last fortnight, but we are working longer now than is at all common. It sometimes happens that one or two of the women may have an hour or two in the day to themselves besides their meals; but the little girls, Ruth Pollet, Ellen Blakeley, and Catherine Horrocks, go on steadily. It is as much as they can do to keep up. The strong women can get on ahead with their work.

541. Richard Holden (Mr. Horridge's Bleach-Works, Raikes, Bolton).—I am foreman of the makers-up and calenderers.

542. We employ about 120 hands. The hours of work for the last six months have been from between 6 and 7 in the morning to 9 and 10 at night, seldom later.

543. Ellen Hodson.—I have worked here seven years. I have a sister at home ill now with bad legs from working so long. She works at the same table with me. I have been ill myself lately. The short time Bill will do us all good.

544. Louisa Olive.—My feet swell and my ankles pain me often; and I am as tired when I get up in the morning often as I am when I go to bed at night. I was 17 last day of January. I do not care how soon we have the short time Bill.

545. MARY SHELCROSS.—We have worked for some months from 6 till 9 and 10 each night. My legs have been very bad from standing for so long hours. We have a man and a girl off now from the long hours; her name is Alice Hodson. The girl has rheumatism in her legs. We want the short time very much. Sometimes my ankles swell so much I can hardly get home at night.

546. JANE HAGWELL.—Many times my ankles swell, and I am unwell from the work. I should indeed like the short hours. We know nothing here, we work so long.

547. RICHARD HOLDEN.—Alice Hodson is not able to stand the long hours. She has a weakly constitution.

548. We generally begin in the stiffening place at 6 o'clock and go on till 8, but we could get through it all between 6 and 6. We should take on another hand or two. We are not very particular as to a few minutes or quarter of an hour at meal times, or about coming punctually at 6. We should have to keep going more regularly throughout the day.

549. We have 14 females here, no young girls.

550. [I asked nearly all these and received the same answer, namely, that they thought the hours too long, though there were longer hours at other places.]

FUSTIAN DYERS (some dyeing Calicoes also).

551. Mr. J. GRIME (Messrs. S. and T. Ashton, Broughton Dye Works, Salford.)—I am manager of these works. We bleach and dye fustians, and print fustians occasionally; we bleach and dye only for ourselves. Our manufactory is at Ramsbottom, near Bury; we employ between 200 and 300. Our hours of work are from 6 to 6, with occasional overtime, but never going beyond 8 o'clock in the evening. We dye all kinds of colours. There is no difficulty in arranging the work so as to stop punctually at 6, or at any other time. If we knew that we should have to stop at a given time, we could arrange so that no mischief should arise. We have about 50 boys under 18. We very seldom go on beyond 6.

552. We do not work for the general trade. We always have a stock of goods beforehand, so that we can calculate the time we shall require to prepare them. We can adapt our labour to the quantity of goods we have to bring forward.

553. The firms which work for the general trade are not so well able to do so, as they are liable to sudden orders.

554. Mr. JOHN LANCASTER.—I have been engaged in fustian dyeing upwards of 24 years as a principal. I dye calicoes also; we dye all sorts of calicoes. We never make more than 10½ hours a day, except perhaps for a week or two in a year. We arrange all the cloth so as just to stop at 6 o'clock without anything taking any harm. There is no difficulty at all about that matter. I think 10½ hours quite long enough for men and boys to work. They are tired when they have done, and are very anxious to give over.

555. I work for the general trade, and am subject to shipping orders; I work for the home trade and foreign, just as it comes.

556. I have generally more than 230 men and boys in my employ.

557. There is no reason that what I do others should not do in the same branch of business.

558. We do not exceed those hours from 6 to 6, even when we are busy; we take time to do it.

559. I think it must be more profitable to keep going on steadily in that way, than to work long hours overtime.

560. Mr. Schofield, Mr. Dewhurst, and Mr. Worrell all work these regular hours, and are in the general trade like myself, and dye both calicoes and fustians. Indeed, all the houses in the fustian dyeing trade in this neighbourhood work from 6 to 6 as a general rule (stopping half an hour for breakfast and an hour for dinner), and always have done since I was a boy. I have been in the trade for the last 40 years.

561. We are not bleachers, but we finish. We employ only five females, and eight or ten under 18.

562. Mr. THOMAS SCHOFIELD (Messrs. Joshua Schofield and Sons).—I am a partner in the above firm. We are fustian dyers; we employ about 150 men and 100 boys. We execute orders for the general trade, both for the home and foreign market. We dye a variety of colours. Our hours of work are generally from 6 to 6 (10½ working hours). Occasionally we have to work overtime, as late as 9 and 10 o'clock. We should prefer never working overtime, but we are pressed by the merchants to execute orders by a particular day. We have considered the question of limiting the hours for boys to between 6 and 6, and we think it could be done without inconvenience. Now and then we might wish to make a little overtime, and we could easily arrange that it should be done by the lads above 18, and the men. As a general rule we should expect that if such a Bill passed, it would have the effect of equalising the work, and spreading it over a longer time. The merchants, knowing that we were debarred from working overhours, would be obliged to give us more time to execute their orders. As a general rule, there is no difficulty in any

of our processes in the way of stopping punctually at a given hour, by making our arrangements accordingly. If any little difficulty should arise, a few men and a few lads could be left to finish pieces which we must proceed with to prevent their being imperfectly done.

563. I think it is desirable that overtime should be discontinued for boys under 18. The process is laborious, moving heavy pieces, both in the bleaching previous to the dyeing, and in the dyeing itself. The finishing the goods by machinery where the boys chiefly are, is also laborious.

564. The only objection I should have to placing our works under inspection is, that we might be put to much inconvenience if we were liable to compulsory interference with regard to boxing off machinery which might at first sight appear dangerous. We of our own accord do everything we can to protect the people from dangerous machinery, but it would be very undesirable to hide from view a good deal of it, in consequence of the liability to fire from the friction produced by the small particles constantly flying about. My opinion is, that, if an inspector were to represent to me that a certain piece of machinery was dangerous, we ought to agree to refer it to two other masters in our own branch of business, to be chosen by the inspector; and if they concurred with him, I should feel at once that it was incumbent upon me to box it off, and I think that every master in the trade would feel the same, and that by such an arrangement there would be no necessity whatever for a compulsory power. The inspector would, of course, report to the Secretary of State that his opinion was supported by the two independent masters whom he called in, and any employer not following a suggestion so made would feel himself under a very great responsibility. I do not think that masters so called in would be at all likely to give an unfair opinion, or to combine together to protect each other. Persons in their position would feel the responsibility attaching to their being so called in by the inspector.

565. Our machinery is very different from that of the factories. If one loom in a factory breaks down, it has no effect upon the rest which are doing the same thing. Such a breakage as would stop the whole machinery of a factory is comparatively rare. Our machinery is heavy and cumbrous, and from its great weight liable to many breakages. It is so varied also, that the stoppage of one machine will stop the whole progress of the goods until it is repaired. For instance, the breakage of a mangle for goods out of the dye house, will stop the progress of all that batch in the drying and all the ulterior processes of the finishing. I think that we ought to have the power of making up for time so lost, within a certain limit, during the same day. For instance, if we lose one hour or three hours, we ought to be allowed to make it up that day, in all the processes ulterior to that in which the breakage occurred, and for all the cloth kept back in consequence of that breakage. We should be able very easily to prove this to the inspector, by an entry in a book, to be made by the foreman of the department, of the time when the breakage occurred, and the amount of delay caused.

566. The same power must be given to us if a delay is occasioned by pumps getting out of order, or water running short.

567. It is to be remembered also, in reference to this question, that we are "workers for hire;" we are employed by the merchants. We promise to deliver goods by a certain day. At present, if a breakage occurs we can fulfil our promise by working overhours. Our stoppages generally delay us from one to three or four hours only, as we keep things ready to repair them; but we might be delayed six or eight hours. In such cases, and they are not uncommon in the trade generally, we ought to be allowed to work three overhours in the day when the accident occurs, and three the following day. After that, we might recover time lost at the rate of an hour's extra work per day. By such an arrangement we should in all probability never have to disappoint our customers by not fulfilling the order to the day.

568. As it is, if we by accident lose a whole day by a breakage, we do not attempt to make it up; we consider it as a day lost. It always throws the goods a day behind. This is the general custom of the trade. What applies to us, applies to all in our branch.

569. If this power of making up for lost time were to be allowed us, we should have no objection to the limitation from 6 to 6.

570. This question has been considered in the meetings of the trade, and spoken of rather favourably. The facts are the same in all our works, and the proportion of boys employed about the same.

Cotton Skein Dyers.

571. Two respectable men tendered the following evidence; but stated that they did not wish their names made public, lest their masters should discharge them.

572. We are a deputation from the cotton skein dyers. Shere are about 20 or 30 masters, within a circle of some six or seven miles round Manchester, The largest employs about 100 hands. There are two that employ from 40 to 60; the rest vary from six hands to eight, ten, twelve, fourteen, and so on. Not more than three employ steam power with manual labour (Mr. Brignal, Mr. Reid, and Mr. Worthington). A few of the others have steam power to grind their indigo, and to pump water. All the rest carry on their dyeing in small shops, a few men and a boy or two.

573. Our hours are from 6 to 6 for the regular day, and from 6 to 4 on Saturday. If the men work overhours, they are paid for them. The boys are generally hired by the

week, and are not paid for overhours. They seldom go on beyond 7 or 8, when they are busy; I have seen them as late as 9, but not often.

574. About Radcliffe there are many little shops of the same kind, some with only one or two, two or three men, generally from two men up to twenty. There are not more than two places that have twenty men; one is Messrs. Pendlebury's, who are large manufacturers of many kinds of cotton goods, and are bleachers and dyers of cotton goods also. The other is Mr. James Farrer's, of Chappel Field, who is also a dyer, bleacher, and manufacturer. None of the rest have steam power except one or two for grinding indigo. The small ones dye for hire, and are employed by the manufacturers. Some of them have their dyeing places in their own yards. According to trade they work the lads longer hours; sometimes we have only three or four hours in the day, sometimes 13 or 14,

575. Where there is no steam power there are very few lads employed.

576. It is only where there is steam power that the master has an inducement for employing boys, because boys can do the light work, in tending the machines, as well as men. There will be one man with four or five lads.

577. Mr. BRIGNAL.—This is a true statement. With regard to my own boys, they are paid for overtime.

578. [Mr. WORTHINGTON stated, he is only a skein-dyer, and does not employ steam power. Mr. Reid is a cloth-dyer.]

579. [Mr. ROBERT ANDREW, Harpurley, printer of skein yarns, Rochdale Road, Manchester.—The foreman stated, that no steam power is employed. The printing process is done with the assistance of a small machine turned by hand. No steam or water power is used by any of the skein dyers, except for raising water or grinding dyeing materials. No boys are employed about that, only two men.]

580. Mr. BRIGNAL, Skein and Cloth Dyer, South-street, Manchester.—I dye skein cotton yarn and cloth. In the dyeing of skein-yarn steam power is never used; it is used in printing skein cotton yarns. It is a very small business. In the cloth dyeing I employ from 12 to 20 boys connected with machinery. Our hours of work are from 6 to 6, with 1½ for meals. We sometimes work overtime, but never later than 8 o'clock. I stop the engine at that hour. On Saturday we stop at 4 o'clock. These overhours depend upon shipping orders from the merchants. The extra hours are from September to February. The rest of the year we are very slack.

581. If we are to be placed under restrictions as to hours, we should soon have more machinery to dispense with the labour of boys. I have had for the last year or so a folding-machine, which saves the labour of hooking. It makes no hook-mark or injury to the cloth, and does the work most properly, with any kind of cloth, strong or fine. It folds a piece of 37 yards in a minute and three quarters. The larger bleach and dye-works have to fold perhaps 10,000 pieces of that length, or a little less, per week; the whole of which would be done in a comparatively few hours by a few of these machines. They are small, requiring very little steam power, as simple a thing as need be, and not expensive, costing from 20*l.* to 30*l.* [Not applicable to all kinds of cloth.]

582. Sometimes the hours of work for boys would affect the small capitalists, like myself, much more than the larger ones. They would have machinery and buildings enough to enable them to do an extra quantity of work when an extra demand came. We cannot so well either add to our machinery or extend our premises; and if we were to employ men only to work the extra hours it might take away all the profit.

SILK AND WORSTED SKEIN DYERS.

583. Mr. JOHN TODD (Mr. T. Bury silk and worsted skein dyers, Silk Dye Works, Adelphi, Salford).—We are silk and worsted skein dyers. We employ no machinery except a small engine for stretching the skeins, and for the hydro-extractors, and there only men are employed.

584. The silk and worsted skein dyeing is everywhere done by the same processes of hand-labour. It goes on at Macclesfield, Leeds, Coventry, Congleton, Spitalfields, &c., for silk; and for worsted in the neighbourhood of Bradford, Wakefield, and a little about Huddersfield. I have been in a few of these. From the nature of the operation it must be by hand. (See § 1267.)

585. This is the only establishment of this kind in Manchester or Salford. The few small concerns for dyeing garments use no machinery.

586. All silk goods are dyed in the skein.

CALICO PRINTERS WHO BLEACH ALSO.

587. Messrs. HEALD, WILSON & Co., Calico Printers.—We dye and bleach at Stakefield, near Middleton, solely for the purposes of our calico printing trade, and not for the market.

588. There are about 20 calico printers of consequence, employing from 150 to 300 hands, in all the three operations. I believe that none of them bleach and dye for the general trade.

589. Generally speaking, the bleach and dye-works connected with and for the purposes of the printing business, are together.

590. When they are together they are all under the Calico Print-Works Act.

591. The general hours of work are 6 to 6 at all places, overtime paid for after 6.

592. There are boys and girls both in the bleach and dye-works, as well as the print-works.

593. At certain seasons of the year overtime is a common occurrence; but we very seldom go on later than 8 o'clock, except in isolated instances, to finish an order.

594. I am not aware that any of the print-works work very long hours.

595. We are at certain seasons often hindered for want of water, not for working power, but for the purposes of washing, &c. Under any circumstances it would be necessary to enable us to make up time lost by being short of water, not on the following days, but when we wanted it. Also in case of breakage of machinery.

596. There are finishing and making-up-rooms attached to all the print-works; just folding up the goods, not calendering, only stiffening and mangling; but the females and boys there are all under the Act, and, although permitted to work from 6 to 10, seldom avail themselves of it, except when very busy. Generally they stop at 8 o'clock, and on Saturday invariably not later than 2. This is the common practice in the trade.

597. As far as I am aware, no wish has been expressed by the females and boys, or by the adults, to have the Act extended.

598. The bleaching and dyeing goes on simultaneously with the printing, each process dovetails one into the other. We cannot bleach and dye quicker than print. All make the same number of hours or thereabouts each day; if we are slack in one part we are slack in another, and *vice versâ*.

599. The reason that we are not liable to be called upon by the merchants to make such long hours for executing an order as the bleachers and dyers for the general trade is, that our orders do not come in such large quantities. The printing business is (comparatively peaking) a fancy trade, and is more in seasons than the bleaching, and the seasons are of shorter duration. There are longer intervals of flatness between.

600. Our works are as large as any in the trade; and our business is chiefly for the foreign markets.

601. Mr. ALFRED NEILD (of the firm of Thomas Hoyle and Sons).—We are among the largest calico printers in the world. Our print-works are in Manchester; and our bleach and dye-works for the purposes of our print-works are at Duckinfield near Aston, about seven miles off. We employ very few boys under 13, at either the bleach or the dye-works, but those that are we consider as coming under the Print-Works Act. We do not bleach and dye for the regular trade, but solely for the purpose of our printing business.

602. This, I believe, is unusual among the whole of the calico printers.

603. The nature of our trade is such, that for about three months in the year (December, January, and February,) we are all very busy, but the principal part are females; boys even then do not work usually later than 8 o'clock, and even then not often continuously for many days together; and the labour itself is of an intermitting kind, it is not continuous. The boys carry pieces and hook them; the females are engaged chiefly in sewing.

604. There has been no wish expressed by the females and boys in our trade to have their hours shortened, nor by any persons in their behalf.

605. For the remaining nine months in the year they seldom work beyond 6 o'clock, and often not so long.

606. Mr. OBADIAH ASHWORTH, Watling-street, Manchester.—I am engaged in the business of embossing, dyeing, and finishing cotton goods. I employ about 40 men, about 35 young men of 18 to 22, and about 25 boys whose ages vary from 10 to 15 and 16.

607. Our regular hours of work are from 6 to 7 from February 17, to November 17 and from 8 to 8 in the other months. We leave off at 4 on Saturdays. We have three busy monthsin the spring and three in the autumn, during which we work overhours three or four nights in the week on an average, but rarely later than 10 o'clock; we are then executing orders for the foreign market, never for the home trade. The goods are for Calcutta, for the American, the Levant and the German markets. The merchants send us their goods, and require us to finish them in a given time.

608. We should decidedly prefer not working overhours. We do not find it advantageous. The majority of the causes of overwork are referable to the demands of the merchants.

609. Our hands are so arranged that if one portion, i.e., the boys under 18, are taken from the work it would derange the operations of the whole. 15 boys keep 30 lads at work, and 30 lads keep as many men going. If we were to be compelled to dismiss the 15 boys at (say) 6 o'clock, and substitute 15 lads over 18, the same number of men would be stopped. It would make a difference of about thirty per cent. on the time required to execute an order which obliged us to work overtime, or (say) one additional day in about three or four. What we should execute in a week at present would then take us perhaps eight days.

610. As far as I am aware, neither the men nor the boys have complained of overwork.

611. There are in the embossing trade only four firms, Messrs. Goodyear, Kaws, & Co., Mr. Isaac Bury, Mr. S. Dewhurst, & Co., and myself. We imprint various patterns upon

calicoes and woollen goods. The woollen goods are sent to us from Bradford. The calicoes are all manufactured hereabouts. There is no other embossing of woollen and calicoes done in the kingdom that I am aware of. Silk is not embossed.

612. If the hours for boys were to be limited, it would make no difference to this firm. I should not suffer at all by it. I should meet it by a small increase of machinery. I should have a reserve to meet these irregularities in the trade.

613. As regards the hours, we ought at all events to have the power of working from 7 to 7 or from 8 to 8. There are many reasons for this connected with the trade.

614. Within my recollection the hours of overwork have greatly diminished, and by enforcing regularity we get our hands here punctually to the appointed time. It rarely happens that any workman absents himself without leave, and he is subject to a small fine if he does not send a message to say why he stays away. The money arising from the fines is applied as a sick and burial fund.

615. My opinion is, that the influences of a large community like Manchester, and the example of the regulation of the hours in the factories, together with the growing number of masters who feel a responsibility towards the workmen, are producing great improvement, and tending to keep a strong check on excessive hours of labour, even without parliamentary interference. This remark may not be so applicable to the country districts.

616. We are subject to the competition of Germany and Belgium in our branch of business. Ours is a continuous and not a season trade. We maintain our advantage over Belgium and Germany by our greater expedition in the execution of orders, arising from our machinery, and the concentration of all the appliances connected with the business; also by our being able occasionally to work overhours. If the latter were taken away from us, we should have to keep a reserve of machinery, as I have before mentioned.

617. Mr. BENTLEY, Deansgate, Manchester.—We are calenderers, finishers, and packers for the Manchester trade. We employ about 45 men, and from 15 to 20 boys, of whom about 8 are under 16, about 12 between 16 and 18.

618. Our hours of work are from 8 to 8 the year round. Sometimes we work over hours, when that is the case we seldom go beyond 10. In very busy years we have worked two months and a half overtime. That was in 1851 and 1852. We never did so before, it was quite exceptional. Last year we did not make full time the year round. The year before we made about full time.

619. The reason of our working overtime is, that the merchants, the printers, or the dyers send us goods to finish towards the latter end of the day. In consequence of a vessel having to go at a certain date, we are compelled to have the goods ready. When we have done with them, most of them have to go to warehouses to be packed and forwarded.

620. When we work overhours we invariably send home all boys who attend the machinery; these are three, the youngest. All the rest stay and work as long as the men do.

621. We should not like to be obliged to send away the rest, unless the warehouses were included in the same Act, as they can perform the same work of making up and packing, and do to a very great extent.

622. There are two large warehouses which have machinery for calendering, and there will soon be many more. The making up and packing, which is carried on in almost every warehouse, is done without machinery. The reason why the great warehouses are going into the business of calenderers and finishing is, that, as they are in the habit of sending out goods late in the day to be finished, the finisher cannot accommodate all parties, having "to play" a great part of the day and to work at night. The result is, that the finisher disappoints his customers, and the great merchants say, "we must now do the thing ourselves." The finishers in Manchester have only small establishments, employing from 40 to 60 hands, and there are only eleven in Manchester and Salford. There are others who make up and pack and call themselves calenderers, but do not do any such work, they give it out to be done by us.

623. There are certain men and lads in the calendering and finishing trade called jobbers. These are sent for by the great warehouses when they are wanted, and paid 4*d.* and 6*d.* per hour (calenderers, makers-up, and packers). They are employed by warehouses in busy times, and are then difficult to get. The finishers are obliged to keep a set of men constantly in their employ, whether they are busy or not. We do not like to employ the jobbers; it is in many respects undesirable to us in reference to our business. Sometimes we have to send for them (although we do not like it), when a sudden order comes in, occasioning overtime. When we want jobbers and cannot get them, we have to keep on a certain number of our men and lads from other departments to fill the places of the jobbers, so as to enable us to execute our orders in time.

624. A deal of the difficulty which we see at present will be obviated when we come to consider about it. I have no doubt about it. The merchants and other parties will have to think how to get over it as well as ourselves; it will, in my opinion, result in a general advance of prices for the various processes of bleaching, dyeing, and finishing; if that should be so, we should be enabled to employ hands of 18 and above in those extra hours. The cost of the bleaching, dyeing, and finishing is but small in the goods for the home

trade, and also in many descriptions of goods for the foreign market. In low-priced goods for the latter market, which are done in considerable quantities, costing (say) 3*s.* 6*d.* per piece of 28 yards in the grey state, a rise in the price of bleaching and finishing of say 2*d.* would be 5 per cent. upon the selling price.

625. If upon a piece of that value a bleacher got an additional halfpenny, and the calenderer also an additional halfpenny, we should be about satisfied with that advance, and should be able to employ extra labour in doing extra work. The dyers seldom work overtime. The other penny might go to the maker up and packer.

626. If any Bill is to pass restricting the hours of labour, it would suit all the houses in my branch of business in Manchester to be able to adopt the limitation from 7 to 7, or 8 to 8; as being on the spot, and near the merchants, we often receive goods to finish towards the afternoon.

627. [Notice given by Mr. Bentley to his workpeople.—"On and after the 17th February "1855, the hours of labour in these works will be from 8 a.m. till 8 p.m. the year round.— "Signed, James Bentley."]

628. Mr. Samuel Bury (Mr. Isaac Bury, Dyeing, Finishing, and Embossing Works).—We employ about 120 men, and about 12 or 14 boys, under 18, and five females.

629. Our regular hours of work are, for nine months in the year, from 6 to 7, and the remainder from 8 to 7.

630. We make overtime frequently, according as the shipping orders come in. We are ruled by that entirely.

631. When we are very busy we work from 6 to 10, or 6 to 11, but more frequently from 6 to 8 or 9.

632. On those occasions we always send the young boys home as early as we can, generally about 7 o'clock.

633. The majority of the overtime is not made in the departments where the younger boys are employed.

634. The overtime takes place more particularly in the calendering.

635. It frequently happens that we require but few young boys to stay over hours.

636. Sometimes in the making-up department we send the younger boys home, and keep the elder to do the work that is required.

637. Sometimes I allow boys to go home earlier, in order to go to a night school, and always endeavour to encourage them in what may contribute to their improvement.

638. [Mr. Vaughan (Messrs. Clemson and Vaughan, Fustian Dyers, &c.) stated, that the hours of labour at his works were from 6 to 6, with an hour an half for meals; and that they very seldom made overhours. They were subject to the same kind of pressure from the merchants to execute shipping orders that the bleachers were, but they, as a rule, refused to work overtime. Sometimes, to oblige a customer, they might do so for three or four days in a week, up to 8 or 9 o'clock, but this was rare. If an Act passed limiting the hours for females and boys under 18, and they still wished sometimes to work beyond the time allowed for them, he should keep the lads above 18 to work those overhours. He should have no difficulty about it, and thought 10½ working hours were quite enough for all persons.]

WEST OF SCOTLAND.

Chiefly Cotton Bleach-works.

639. Messrs. W. Adam & Son, Milnbank, Glasgow.—We are bleachers and finishers of coloured cotton and woollen fabrics. We employ from 150 to 200 hands; our general hours of work are from 6 to 7, allowing 1½ hours for meals, and three quarters to each meal. On Saturdays we stop at 3.

640. Several of our females have to work in the stove-rooms, where the thermometer ranges from 90° to 100°. In one room we have introduced recently a great improvement. The females are separated from the stove by a division of glass; and out of eight employed, four are sitting down, directing the progress of the cloth on the finishing frames; these four change occasionally with the other four, and none of them are required to go into the stove. The cloth is conducted into the stove where the temperature is about 150°, and in consequence of that increased heat we can dry a greater quantity in a short time. It is then folded up.

641. We are at times called upon by the merchants to execute shipping orders suddenly; but we may conclude that, if the hours of females and boys were limited by Act of Parliament, they would be obliged to give us a little more time. At our very busiest time (in the winter months, December or January), we seldom have occasion to continue the people at work beyond our usual hours, more than three times a week, or rather twice. We have the means of doing a larger amount of work when required.

642. The questioning of shortening the hours of labour has been long considered by us. We were amongst the first to reduce the hours from 6 to 8, to their present limit; this was about 10 years ago; and I see no difficulty in reducing it to the same hours as the factories, provided all were placed upon the same footing.

643. JAMES THOMSON (Mr. Wallace's Bleaching, Scouring, and Finishing Works for Cotton and Woollens, Burnbank, Glasgow).—I am manager of these works, and nephew of the owner. We employ about 10 men and 40 females; we have that number in summer. Our usual hours are in winter from 6 to 9 (half an hour for meals) and on Saturdays we stop at 3, stopping half an hour for breakfast only. In summer the hours are nominally the same, but some of the hands work generally for 15 hours a day at the very least, for three alternate days a week, but sometimes it is every day in the week, and occasionally from 6 a.m. to 12 p.m. the whole week through; we did that last summer several times. Three days we worked 20 hours each day. The age of most of our girls is from 10 to 18. The stove-rooms in which they work are in winter heated up to 100° to 110°; in summer the heat is from 120° to 130°.

644. I feel, when I am urging the females to work these long hours, I am doing what is not right, but I have been urged to do it to get a lot of goods finished.

645. Sometimes they stay here all night, and then we make a place for them to lie down upon in a store-room upon the pieces of goods unfinished. Sometimes 14 or more girls will pass the night in this manner, after working 19 hours, and coming out of those hot places dripping wet with perspiration, and their clothes wet through with it.

646. MARGARET CAMPBELL.—I have worked in bleach-works 20 years, the 10 last here. I have often been ill from working in the great heat; my leg is now bad with it, and the doctor told me I must give up. The girls very often suffer from it, go away and die from it and the long hours; they often complain that their health is quite gone; they look very pale and tired from it.

647. [There were 20 females in one of these rooms. I asked them all whether they wished to have the hours shortened, they all immediately expressed their assent with great apparent pleasure. They said they would readily "want the money" they got by working overtime. They said "it took it all to keep up their bodies," to stand the heat and the long hours.]

648. MATTHEW BOWER.—I am engineer at these works. I have been here 16 years. I have seen a great deal of the injury arising to the females from their long hours and the heat, injury to their bodies and to their minds; and it all might be prevented by our putting in another stove. The cost would be very little, and it would soon be repaid, because the goods are not well done at night, and they would be done by day and no gas burned. Goods are often sent back for being badly finished by the night work. The females get into that state in the evening, when they have wrought the overtime, that they are not fit to attend to their work.

649. [The manager and the engineer further state, that "Mr. Wallace is quite willing for "the hours to be reduced like the factories, but he would prefer it to be done by mutual "arrangement rather than by the interference of the Government."]

650. Mr. MCCOLL, Kelvenhaugh Bleach-Works, Glasgow.—We employ seven men and 27 females. About 10 months ago, at the workers' request, we reduced the net hours of work from 12 a day to 11. At some periods of the year we work a good deal overtime, as far as to 12 p.m., from 6 a.m.; for this overtime they are paid a day and a half, and if they work to 9, they are paid a day and a quarter. We do not like this overtime; we find the workers not so fit for work the next day. If the hours for females were to be limited, as with factories, the merchants, who are the cause of this overtime, would be obliged to conform, which we should be very glad of; we find it very disadvantageous.

651. Working 11 hours net, we allow an hour for meals; and we stop on Saturdays at 3 o'clock.

652. [The heat in the stoves is about 105° in winter, but much higher in summer.]

653. Mr. J. WALKER, Castlebank Bleach-Works, Partick, Glasgow.—I employ about 18 men, and about 70 females. The usual hours are from 8 a.m. to 7 p.m., with 2 hours for meals, but three quarters of an hour is the allowed time.

654. In case of a hurry we take an extra hour or two, but for these we pay the hands double time.

655. I should be very happy to adopt the same hours as the factories, if all were to be put upon the same footing. The extra hours are no advantage to the bleachers, and we merely work them to oblige the manufacturers.

656. The chief number of our females are employed in the stoves. The heat is "moderate," not above 90°, but in summer it is higher.

657. About three years ago most of the bleachers reduced their hours of leaving off work, from 8 o'clock to 7, by general agreement.

658. Mr. WILLIAM FRATHEARN (Mr. Alexander Wilson's Bleach and Dye-Works, Bellshaugh).—I am manager of these works. We employ about 50 boys and girls, and about five men.

659. About 4 years ago we reduced the hours to 11 working hours a day, in the stove only, where most of the hands work. In the dye-house we work only 10 hours, and we arrange the work so as to stop precisely at that hour; sometimes we work a little overtime, but rarely.

660. In my opinion the boys and girls in the stove would do just about as much work in 10 hours as they do now in 11. They would work with more energy; they now get relaxed towards the end of the week. The heat in the stove is 110° at this moment, which is the heat we wish to keep it at. In summer it ranges about the same, as that heat suits our style of work. At breakfast we allow an hour, and at dinner an hour; but by their own wish they take only three quarters of an hour at each, in order to be able to leave off at half-past 2 on Saturdays.

661. If the hours were to be put on the same footing as the factories, we should not on this work be put about at all by it.

662. When we ask the girls to work overtime (sometimes about six hours in a fortnight), we pay them in the proportion of their day's wages; but if it comes to (say) 5 hours extra, we call it half a day.

663. Messrs. J. & H. McConnell, Kirklee Bleach-Works, Glasgow.—We employ about 30 hands; of them 15 are females. Our hours are from 6 to 7, and two hours off for meals.

664. I should be very agreeable to have the same as the factory, from to 6 to 6, and a short day on Saturday.

665. We bleach webs and yarns of every description, and we use machinery for wetting, washing, starching, and drying (with extractors).

666. Mr. Beaumont Fleming (Messrs. Fleming's Bleach-Works, Newlandsfield).—I am a partner and manager of these works. We employ about 30 men and 250 females when we are busy. Of these females 35 are employed in the bleaching houses. In these it would be very inconvenient to stop at 6 o'clock, because some of the chemical processes are not finished by that time, and the goods could not lie over till the next morning. We begin at 6 a.m. and stop at 7. If the goods are not out of danger we work past that hour, a little longer. All the rest of the processes might stop at 6; the drying and finishing departments employ all the rest. We have only two boys employed.

667. In the bleaching department we go on all night, and have three, four, or five females, and two men. That goes on all the year round.

668. If there were to be a clause in the Bill, allowing us to finish up the work, so as to put the goods going through the chemical process out of danger, we would not object to the Bill. The short hours could be introduced without difficulty in the drying departments.

669. America and Germany are coming up so close to us in particular goods (Germany in ginghams and other light fabrics, and the Americans in printed goods and jaconets) that, if we could not get our goods forward as rapidly as we do now to suit the merchants, they might send to those countries for a supply, and it would be against the interest and business of this country.

670. We are all upon day's wages, no piece-work. The reason is, that the pieces of goods are so small and light, and therefore so numerous, that piece-work could not be managed. Our labourers have 12*s.* a week in the bleaching department, and most of the females 6*s.*; in the drying and finishing departments the women have 7*s.* 6*d.*, 7*s.*, 5*s.*; for the learners and little girls, 3*s.* to 3*s.* 6*d.*, or 4*s.*

671. We work no overtime. We gave up this about a year ago. We are thus able to begin more punctually in the morning.

672. [Considerable additions are being made to these works.]

673. Mr. Gilroys (Messrs. James Young & Son, Bleaching and Finishing Works, Auldhousefield).—I am the principal manager of these works. We employ about 80 men and 240 women, and about 40 girls and boys. We bleach and finish fine goods. Our hours of work are from 6 to 7, but the rule is only 66 hours per week. The meal hours are 1½ a day, and we stop on Saturdays at a quarter past 3 o'clock. Sometimes we work two or three hours beyond 7, when we are pushed to execute an order; and it has happened three or four times in the year, for the last two. In such cases we do not work on the following day.

674. In all other cases we ring our bell at 7 o'clock, and on Saturdays at a quarter past 3, and the whole works stop. In the bleaching part, the bleacher studies so to have his goods arranged that they will not go wrong, or take any damage. We employ about 20 females in the bleaching department. We do just the same kind of work as our neighbour, Mr. Fleming. We never have any occasion to go on after 7, to prevent injury to goods. If goods require two hours in the chloride of lime (which is the only process in which they can go far wrong), and we have only an hour before 7, the goods lie over till the next day.

675. We are favourable to a standing regulation of the hours for all parties, by Act of Parliament. We shortened the hours voluntarily two years ago, to 7 o'clock. All the masters did not come into that, only 11 out of upwards of 40. Those eleven were the principal persons in the white bleaching trade.

676. The highest temperature in our stoves is 120°. There are about 30 to 40 females in that, and six to eight men. The temperature in the other stoves is from 90° to 110°.

677. We think that, considering the above temperatures, the hours from 6 to 6, with 1½ hours for meals, are quite as long as are desirable, either for the masters or the workpeople. On Saturday, the hours for stopping should be, as in the factories, at 2 o'clock.

678. [Mr. King, general manager, concurred in the above.]

679. We have been enlarging our works, and have nearly completed a considerable addition to them since we commenced in November. This question of shortening the hours for females and boys has been under consideration for upwards of two years. We have thought it desirable to make preparations beforehand, in the case of such a Bill passing. In my opinion, any preparation of the kind that might be necessary could be executed within six months of the Bill passing.

680. We have very few children under 11, and we never take them under 10. If by fixing the age at 11, school certificates would be rendered unnecessary, 11 would be the better age. There would be no need to burden the Act with the machinery of compulsory school attendance, if we were not to employ children before they were 11.

681. We have very little dangerous machinery exposed, and accidents are rare. We are very careful to fence off whatever seems to us dangerous. If an inspector were to suggest that any portion was dangerous which had not before appeared to us to be so, if the suggestion were reasonable, we should be very glad to attend to it. We should think it better that the Bill should be as simple as possible, provided it were explicit as to the hours of labour.

682. Alexander King.—I work at Mr. James Young and Son's bleach-works, Auldhousefield, Pollockshaw. We bleach ginghams and muslins. There are about 300 hands employed; of these 250 are females. When we are busy the number is about 400. Our ordinary hours of work, previously to November 1853, were 16 hours a day; since then the plan has been adopted of a night-shift, the hands for the day-shift begin at 6 a.m., and go on till 7 p.m. The night-shift then begins, and goes on till 6 a.m. Sometimes, about once a week, one shift will begin at 6 a.m., and go on till 6 the next morning. This has happened once a week on an average for the last six months.

683. The females all work in the stoves. The thermometer is about 110°.

684. We had a conference with the masters in October 1853; at this conference 11 employers agreed to work 66 hours per week, with relays for night work. All these have broken through it, except Mr. William Cuningham, of West Arthurlie, Barrhead.

685. At Mr. Young's works, although he does not allow his people to exceed the 66 hours a week, he employs them at irregular hours; for instance, a set may begin at 12 o'clock in the day, and work till 12 at night; another time, a set may begin at 3 a.m., and work till 4 p.m. This is the very common practice when we are "throng" of work; so that we never can reckon upon what time we may have to ourselves.

686. Mr. Gilroys.—There are some inaccuracies in the above statement. Previously to October 1853, we did not work regularly 16 hours a day, only just occasionally when we were very busy; and at that period we counted 12 hours a day, and whatever time was wrought above that was paid as overtime; and when we wrought a whole night, we only got 10 hours' labour for 12 hours' pay.

687. We still work with night-shifts. We employ in busy times about 30 females and 8 men. They begin at 7 and work till 12; then there is a meal hour; they then work from 1 a.m. to 6 a.m.

688. Alexander King is correct in saying that on Monday morning frequently the set that begins then works till 6 o'clock the next morning, with one and a-half hours for meals in the day and two hours in the night, i. e., from 7 to 8 and from 12 to 1. But they do not exceed 66 hours in the whole week, according to our arrangement. Those who work in this way will be the number above stated, 30 females and 6 or 8 men. Among the females will be some from 10, 11, to 13 years of age; the rest chiefly between that and 20. This is not a system that we like or approve of, and we should be very well satisfied to see that it was put an end to by a general Act.

689. Mr. Stark (Mr. J. H. William Crum's Bleaching and Finishing Works, Thornleybank, Pollockshaw, Glasgow).—I am the manager of this department of Mr. Crum's works. We have also a print-work on the same premises. The hands in the latter only are under the Print-Works Act.

690. In the bleaching and finishing department we employ about 400 persons, men, females, and boys. We bleach and finish heavy cotton goods principally, and woollens also. Our hours are from 6 to 7, with two hours for meals. On Saturday we stop at 2; on Friday night we work to 8, in order that the hands may stop at 2 on Saturday instead of 3. We very seldom work overtime; when we do so, it is generally within the months from December 1, to the end of April. The overtime is sometimes two or three days in the week, in other weeks not at all. We never exceed 10 o'clock, except with relays; and for this overtime they are paid the same rate as their day's wage, and get an hour's rest from 7 to 8.

691. When we are very much pressed, we have relays. There is a certain class of overwork, such as beetling goods, where we go night and day all the year round, but we employ none but men there. The night-shift in the beetling department come on at 7 p.m. and work till 6 a.m., and they have an hour during the night for refreshment. In the night-shift we employ no females or boys; they are all men.

692. The heat in our hottest stove is from 100° to 120°, within the machines; but by our arrangement the females have only to go into that heat for a few minutes at a time.

693. As far as our works are concerned, the factory limitation of the hours would have the effect of preventing our working at times till 10 o'clock in the busy seasons, and it would probably oblige us to add to our machinery to enable us to do the same work in a shorter time. The tendency of a general measure would be to cause the work to be distributed over a longer time; the merchants would have to anticipate a little their present time, if the masters thought it unadvisable to increase their powers of production. The probability is that there would be a little of both.

694. [Mr. McClure, the principal manager of these works, concurred in the above.]

695. [Mr. Walter Crum stated to me, that although no one in business liked to encounter an additional difficulty, and legislative interference was not wanted in reference to his own works, yet that if good reason was shown for protecting females and boys from the effects of extra labour at other works, he should be unwilling to place any obstacle in the way.]

696. [At Mr. Wallace's works, Netherplace, where about 400 persons are employed in bleaching and finishing fine-worked muslins and other fine articles, the hours worked are from 6 to 7, with very little overtime. The appearance of the females was very clean and respectable, and betokened the frequent presence and attention of the ladies of Mr. Wallace's family. It appeared that there was every disposition in these works to adopt the same limitation of hours as in the factories. The principle was approved of, and doubtless it would be advantageous to the women and girls, and prevent cases of sickness which now sometimes occur. The temperature of the hottest stove is from 100° to 105°, rarely more, except by want of attention. Some of the girls were below 11. The work is very light—bleaching, washing, starching, &c., ladies' worked dresses, collars, scarfs, &c.]

697. Mr. Archibald McNeil (Mr. J .Cochrane, Jun., & Co., Chapelfield, Barrhead).—I am manager and partner of these works, and have had 33 years experience in bleach-works. We bleach coloured and white muslins. We employ about 250 hands, of whom about 230 are females; the youngest being about 13. Our hours are from 6 to 7, with 1½ for meals, and we stop on Saturdays at 3 o'clock. We very seldom work overhours. I am in favour of reducing the hours to those of the factories, and think that it is impossible without an Act to get all parties to work the same. If all were alike as to hours, there would be no difficulty about it.

698. Mr. James Cuningham & Sons, West Arthurlie, Barrhead.—We bleach and finish muslins, and employ about 200 females, and about 60 males. We have more than that when we are busy. The youngest are from 10 to 12. Our hours are 6 to 7, with 1½ hours for meals; and we stop on Saturdays at a quarter past 3.

699. The usual working heat in our stoves is from 90° to 110°. Nearly all the females are employed in those.

700. We have not worked any overtime since we entered into the arrangement with the operatives in October 1853. Some of the bleach-work masters did not enter into that arrangement, and are therefore able to work their people as long as they please. We should therefore be glad to see the whole put upon the same footing. We should prefer the present hours, from 6 to 7.

701. For four or five weeks in the course of the year, at various times, we may not be employed at all. We may be idle one day in a fortnight; as we depend upon the manufacturer sending us goods to bleach, &c. The slack time is generally in the summer. If the merchant and manufacturer were to give out the goods a little earlier, we should be more regularly employed. Before we entered into the arrangement of 1853, we used to be pushed by the merchant and manufacturer, and obliged to work 16 hours a day continuously for a time, and sometimes all night. The merchant and manufacturer have conformed already to that alteration.

702. We should not object to come down from our present hours (66 per week) to 60, if all were placed upon the same footing.

703. Mr. Blackwood, Arthurlie.—We bleach cotton thread, and cotton yarn, &c., and employ about 60 hands. Our hours are from 6 to 6 generally, and sometimes a little more. This is the only work of this kind here.

704. If we were all put on the same footing, and we were not allowed to work overtime, it would be quite the same to us. The few other thread bleachers work about the same hours as ourselves.

705. Mr. Alexander Cochrane, Jun., & Co., Kirktonfield, Neilston, Paisley.—We bleach and finish all classes of plain and embroidered muslins. We employ, when we are busy, nearly 700 hands, of whom about 600 are females; the youngest being seldom under 11, not more than 15 or 20 being under 15.

706. In October 1853, we adopted the arrangement of working from 6 to 7, and stopping at 3 on Saturdays. We work overtime very rarely, and if we do we do not exceed the 66 hours in the week. Just a few hands may do this to finish up the goods in process.

707. We have a night-set in the bleaching department only. The reason of this is, that we have to bleach very fine embroidered muslins, which require about three weeks to bleach, going on night and day.

708. Subsequently to the arrangement of 1853, we largely increased our bleaching department, partly to meet the reduction of the hours, partly because the trade increased. We had to bleach quick enough to keep the finishers going during the restricted hours.

709. The nature of the work in bleaching these embroidered goods is such, that it is necessary that it should go on continuously night and day.

710. In this department of bleaching, we employ for the night work about 10 men and 20 females. They are all strong grown up women.

711. The goods are very valuable and delicate, and we do not think that the labour of young men is suitable to it.

712. This department constitutes our great difficulty in conforming to the factory hours, which forbid night work for females.

713. Those females who work at night, begin at 7 p.m., and leave off at 5 a.m., having one hour for supper at 12.

714. We do not consider working overtime in the finishing department profitable. At present it may occur that the hands in that department may lose a couple of hours in one day, and may make it up in the course of the week, by working till 8 the two days following.

715. We have no overtime in the bleaching department.

716. The females in the bleaching department earn 6*s.* 6*d.* per week, and the ordinary working men 12*s.* We have generally a large quantity of these embroidered muslins in hand, of a very great aggregate value. They are ladies' dresses and collars, flounces, trimmings, children's robes; worth from 1*l.* to 10*l.* per piece. We have often a great many thousand pieces in hand at the same time.

717. The only other principal work in this trade is Mr. Wallace's, at Netherplace.

718. Messrs. M. Arthur & Son, Crofthead Bleach Works, Neilston.—We employ about 180 females and 20 men and boys. We bleach and finish muslins. Our hours are from 6 to 7, and on Saturdays we stop at 3. We work no overtime; we adopted the regulation in October 1853.

719. We have three stoves, and the females are, with the exception of six, employed in these stoves. Two are book-muslin stoves; the thermometer in which is kept as near as possible between 90° and 100°; near the furnace 105°; near the door it is cool.

720. Of our girls, about 25 to 30 are under 18; the rest are grown up.

721. As regards our processes, there would be no difficulty about stopping at 6; we can stop in a minute at any time.

722. In the other stove, the thermometer is about the same. It is hotter to-day than usual, as the class of goods we are finishing is heavier.

723. A large number of our females are working in very cool places.

724. Although our buildings are very airy, and our locality very favourable, and all our people remarkably healthy, still the present hours of 11 a day are more than the young girls can properly stand.

725. When we reduced the hours to the present limit, we did not reduce wages; we raised our prices for bleaching, &c. to the manufacturers.

726. If the hours were further reduced, and trade were to become bad, we might be obliged to reduce the wages.

727. All ours is day-work. There is no piece-work in our trade.

728. The principal elements of expense in our processes are starch, coal, and wages Starch a few years ago was at 25*l.* a ton, it is now 40*l.* In our process we use a ton a week.

729. Coal has advanced 30 per cent. in the same time.

730. If we had moderate prices in those two articles, it is very possible that the factory hours might be adopted without reducing wages.

731. [To questions put by me to some of the girls and women in these stoves, as to whether they wished the hours to be shortened, the answers were: "The lassies are crying out for it." "I should like it weel." "It would be very good to get out of the burning stove for an hour more a day." At the same time many of them said they would rather go on as at present, than have their earnings reduced.]

732. Mr. John Brown (Robert Fulton & Co., Glenfield, Paisley).—I am a partner of this firm. We are scourers and shawl washers; we employ about 35 men and 35 women, mostly grown up, and about six boys. About a year ago we adopted 63 hours a week, in place of 66. We seldom work overhours, but it does happen; about two years ago we worked from Friday morning at 6 p.m. all through Friday night, and until Saturday afternoon at 3, meal times excepted, and two hours at night (from 7 to 8, and from 1 to 2). This might happen again if we were pushed. Two females worked at that time with the set, the same hours as the men.

733. The boys are 14 years of age. The work is rather heavy, and we do not require younger ones.

734. We could go on very well with these hours, and do not require them shortened, but as they work long hours at other places, we should not object to the factory hours for the sake of them.

735. The other firms in this business are J. & G. Aikman ; Job Colquhar, Bridge-street; Crum & Co., Thornlie Bank. The two first, I believe, work the same hours as we do.

736. [See Evidence, as to Messrs. Crum's work.]

737. ROBERT STEWART (Messrs. A. Hamilton & Sons, Blacklandmill, Paisley).—We bleach and finish muslins, and employ about 30 men and 300 females ; the younger ones being from about 11 to 14, of whom we have about 10; the boys 12, are between 10 and 14.

738. Our hours of work are from 6 to 7, with 1½ hours for meals, and we stop at a quarter past 3 on Saturdays. We adopted that regulation when the other masters did. We never work overtime. Sometimes, about once or twice a week, we have a night-set, who begin at 8 and go on till 6, with one hour for refreshment ; in this set there are 15 women, and one man, no boys.

739. The work for the females is of two kinds; one is "braiding," that is, pulling out the cloth to its full breadth while it is stretched upon frames. We have for this four rooms, and there will be about 170 females in them. They will be in them without intermission during the hours of work. The thermometer is never, if we can avoid it, above 100°. It is rather higher near the fires.

740. The other description of work, in which about 130 females are employed, is starching and drying. The greatest portion of these are alternately in the stove for ten minutes, where the heat is rather above 100°, and then for five minutes in a cool room ; the cooling is necessary to prevent the starch hardening too quickly. In this starching process, we reckon that two girls get through from three to four pieces an hour. It depends upon the quality of the goods.

741. We never exceed the 66 hours in the week, but without a law being passed there is no security that others will not break through the agreement, and work longer hours to our disadvantage. We are all agreeable to have it brought down to 60 hours, if it were the same for all. In my judgment 60 hours are quite long enough for any one to work in such heat, or in any other employment.

742. Before the arrangement we used to work from 5 a.m. to 7 p.m., with only 1½ hours for meals. Wages have not been altered. The increase in the price of starch and coals is much against us in bringing down the hours from 5 to 6 a.m.

743. Mr. ROBERTSON, Jun.(Messrs. Mathew Robertson and Co., Foxbar and Lonsdale Bleach-Works.)—We bleach and finish fine muslins of all descriptions. We employ between the two places 450 hands ; of these only 30 are men, and about 30 boys between 12 and 16. Our hours of work are from 6 to 7, with an hour and three-quarters for meals, and on Saturday we stop at a quarter past 3, with three quarters of an hour for breakfast.

744. We adopted these hours at the time of the regulations made by the masters. We never work overhours or night work.

745. Our stoves average about 90°; we do not require a greater heat. The girls are about five minutes in the hottest part of the room, then about the same time in the next part, where are about 75°, then five minutes in the cool room. This is the process in the starching and finishing department.

746. In the "stenting stoves," where the goods are stretched, the heat is 100°. We have only 20 females in those.

747. As far as our works are concerned, there is no necessity for a reduction of these hours, and the high price of starch and coal would make it extremely inconvenient. The workers here never speak of a reduction of the hours. As the work is light, and the heat moderate, there is probably no more favourable work in the trade. The situation is very healthy.

748. GEORGE BUCHANAN and SONS, 95, Candleriggs, Glasgow.—We calender and finish printed and woven cotton goods. We employ about 200 hands, of whom about 60 are females and about 30 lads under 21. Our usual hours are from 6 to 7, with two hours for meals, and we stop on Saturdays at two. Occasionally we have night work for the finishers. The night set consists of some 20 or 30, and that very seldom, just at particular seasons, when there is a particular pressure. We have five stoves, in which heat varies from 80° to 90°. In those the females remain all the working hours.

749. The working at night is forced upon us by the merchants and manufacturers, who send us more goods at certain times, in consequence of the irregularity of the demand upon them.

750. We give our people several days of recreation throughout the year. We adopted this regulation of from 6 to 7, three or four years ago. Before that we worked from 6 to 8.

751. Previously to the last six months, we used to work a great deal of overtime; up to 9, 10, and 12 o'clock ; and we had also night-shifts for, perhaps, one half the year, who began at 7 and worked till 6, with one hour for refreshment. About 20 females worked in that night set.

752. The effect of placing us under the same hours as the factories and forbidding night work for females will probably be, that we shall introduce the machinery now coming into use, by which the cloth is stretched and dried, and which can be worked with 6 hands instead of 16, and we should probably employ young men for the night work, and it would then curtail the work for girls.

753. The heat in our stoves is about 100° in one stove, and 110° in the other.

754. When we worked extra hours, we used to think we had done well when we averaged two extra hours per day for twelve days together. This might go on for three months at a time, then there would be three months in which we should be working those hours for two or three weeks together, and then a week with less, perhaps even less than the regular hours. For the other six months of the year we might make on an average "three quarter time."

755. At present, taking the whole year, I should think that our females average 12*s.* per fortnight the whole year through.

756. If they were to have the factory hours, I should not like to guarantee them above 10*s.* per fortnight the year through.

757. These girls would be from 16 years of age upwards. Their ages are generally between 13 and 25.

758. [There are two other small works in this business in Glasgow, and they are regulated by the same number of hours as this,]

759. Mr. Smith's Calendering and Finishing Works.—We employ about 60 or 70 people, of whom about nine are females. Our hours are from 6 to 7 at night, and two hours for meals; and we stop on Saturdays at 2. Sometimes when we are very busy we work overtime as late as up to 11. We never work later than 11, and have no night-sets. We employ only two boys,

760. Mr. Hatton's Bleaching and Finishing Work, 20, Tureen-street, Glasgow.—We employ about 40 females and four men. We bleach and finish common cotton goods. Our hours are from 6 to 7, with two hours for meals; and we stop on Saturdays at from 2 to 4.

761. Mr. William A. Cuningham (Messrs. W. Cuningham and Son, Bleachfield, Campsie.) —We bleach and finish muslins, and employ 10 men, 2 boys, and 32 females. Our hours are from 6 to 7, with two hours for meals; and the same hours on Saturday. Before the arrangement of October 1853, we used to work from 6 till 8. We have every night one man and one woman at night work, from 7 p.m. to 6 a.m.; they are making goods ready for the next day.

762. Some of the bleach-masters did not come into that arrangement, and it is a disadvantage to us that they should work what hours they like. It is again to them to be able to get through a greater quantity of work than we do who have entered into this arrangement; they could, therefore, do the work at a lower price. But the principal objection is, that by working overhours they can promise to execute an order in a shorter time than we can; therefore, an Act of Parliament is necessary to prevent those who have entered into the arrangement from breaking through it, and thus putting all the rest upon the same footing as ourselves.

763. We have one stove, in which there are generally six or seven females, (of whom two are between 10 and 14,) and one man. They are in it during the whole of the working hours. Our working heat ranges from 80° to 110°, and sometimes a little higher.

764. The other drying-place consists of steam cans, and is of moderate temperature. Several of our women are employed in the bleaching department also.

765. If the factory hours are made general for and adhered to by all the bleach-works, we should not object to them.

766. Mr. McKinlay, Glenmill, Campsie.—We bleach and finish muslins, and employ 26 men, 2 boys, and 114 females. Our hours of work are from 6 to 7, with an hour and a half for meals, and on Saturday we stop at 3, working 66 hours per week. Before the arrangement of October 1853, we worked 69 hours. We do no night-work with females; and have only one man in addition to the watchman at night.

767. We have two stoves, the average heat in which is from 82° to 85°. The females are allowed to go out for five minutes at three periods of the day, and also whenever they require it. Of the females in the stoves, seven only are under 14.

768. As far as our workers are concerned, I do not think that any legislative interference is required; but it would be more satisfactory that whatever arrangement is made should not be voluntary, as that is liable to be broken through, but by Act of Parliament, which would place all upon the same footing, and, of course, would be enforced. I should not like to adopt 60 hours instead of 66, as we already raised our prices when we came down to 66 hours, and a further increase would, I think, be disadvantageous to the trade in general. At present we are under the additional difficulty of the very high price of starch and coal, together with an advance of wages.

769. Between four and five years ago, I renewed my attempt to establish a school in connexion with these works. It is opened about a quarter past 7, three evenings in the week. I provided books and every other requisite. One of our workmen, who teaches the younger ones, is paid a halfpenny a week from all who attend. About 54 attend. All our female workers are almost exclusively from Ireland. I teach the elder ones, and have a class of from 15 to 18 reading the Bible. I have given them an opportunity of learning, and could wish that more would have taken advantage of it. As our work is light, they have not the excuse of being over-fatigued. If any one can read when she comes in, it is quite an exception; they are exceedingly ignorant.

770. This is the only work in the trade which has an evening school attached to it. I have taken occasion to bring the matter before the other masters, but I believe without effect. I feel sure that if they were better instructed, and had, consequently, some information in their minds to occupy them, we should find them more steady at their work, and they would in every way be more valuable workers. They ought to be considered as in a home, when brought from a distance, as is the common case in the bleach-works, and to be cared for accordingly.

771. Mr. ALEXANDER GOW (Mr. McLean's Yarn Dyeing Works).—I am the manager of these works. We employ about 50 people. Our hours are from 6 to 6, and on Saturdays we begin at 5 and stop at 4, working therefore only 60 hours a week, having two hours every day for meals.

772. The arrangement of work is such that we should be very much thrown out if we were obliged to stop at 2 o'clock on Saturdays. It would allow only 1½ hours a day for meals, and that would break in upon the usual quantities of work which the men can get through at present, and oblige us to divide the bundles of yarn. This might oblige us to put off to the next day finishing a lot of yarn of one colour, and so hinder us the day following. We should object to be kept to our 60 hours a week, unless at 10 hours a day. There ought to be an Act for the 60 hours, as many works go on as many as 90 hours a week. When we have occasion to do more work we take on more hands. As it is all piece-work it would not make any difference to the master if we did a few hours less than the 60 hours per week, provided it was a quantity equal to a quarter of a day; that would be no disadvantage to us. If the people chose to work only 57 hours a week (that is, five days for 10 hours a day and from 6 to 2 on Saturdays, stopping one hour for breakfast), it would not interfere with our arrangements.

773. Mr. LOGAN (Messrs. James Pender and Sons, Cloth, Cotton, and Linen Bleach-Works).

774. We employ about 40 men, 14 boys, and 16 females, all grown up but one.

775. Our regular hours of work are from 6 to 7, with 2 hours for meals; and on Satur days from 5 to 3 with one hour for breakfast; making 65 hours per week. We never work overtime with boys or females.

776. The process of the linen bleaching is similar to that of the cotton with the exception, that we have to expose it to the atmosphere for varying times according to the state of the cloth.

777. The linen bleaching goes on at all times except during three or four months of winter; the frost is the impediment then. The hours for the linen bleaching are just the same as for the cotton.

778. If it should be found desirable to apply the factory hours to the works in this branch of business, and therefore to reduce the hours to 60 a week, it would not interfere with us, provided we had the power of working overtime with females and boys, in cases when we had been impeded during the day by the want of water power or the breakage of machinery.

779. We sometimes have a request from a customer to get a lot of goods forward by the next day, which we can only do by working with a few hands (in the folding for instance,) after the usual hours. We may not receive the letter making this request till the afternoon; perhaps, we might not have more than two or three females whom it might be requisite for us to keep overhours for that purpose; this may occasionally occur. If a general Act forbade the employment of females and boys after 6 o'clock, we should have to put lads or men to that work for that short time.

780. I think it desirable that all parties should be put up on the same footing as to hours. As many bleach-fields throughout the country, both in England, Scotland, and Ireland work, overhours, that causes, to the extent of this overwork, a detriment to all those in the same branch. As therefore we work moderate hours, we should be glad to see all obliged to conform to these moderate hours.

781. Our stoves are heated by steam, and the heat when the females and boys are in them is moderate. All the persons in our employ are healthy. It is two years and a half since we commenced the present hours; previously we worked till 5 on the Saturday, the same hours as the other days in the week.

782. ELIZABETH HENDERSON (Mr. Clark's Bleachfield, Burnbrae, Millengood).—When Mr. Wilson the manager is not here, I take charge of the work. There are about 36 females and four men employed here, and one boy. Our regular hours are from 6 to 7 with two hours off for meals; and on Saturdays we have only one meal, and begin at 6 and work till 4.

783. One week we may be very slack and another week very busy. When we are very busy we sometimes begin at 1 o'clock upon Sabbath mornings [upon Monday mornings] and work sometimes till 9 o'clock on Monday night, and sometimes even all Monday night, and get home at 6 o'clock on Tuesday morning. We then go home for four hours and come out here again at 10 o'clock and work up till 11 and sometimes till 12 o'clock that night. The next day we should come out at 6 and work the regular hours; that may go on for a few days or a week, and then we should commence, as before, at night-work, going home at 7 in the evening for one hour, and working through the night. We stop from 12 till 1 in the

night for refreshment. It was rather before the new year when we commenced to be so busy, and it has been going on this way up to this time (March 24th).

784. All the females at the works signed the petition for the factory hours, and gave a good deal of money for it.

785. The girls that are kept the longest are the 10 that work in the steam-drying room. It is sometimes very hot in summer.

786. [Mr. Watson returned before I left these works. The above evidence having been read over to him, he assented to its correctness.]

787. Mr. WATSON.—We work the long hours because others do. We think from 6 to 6 quite enough; and if all in our branch of business worked only those hours, we should be glad to do the same.

788. At present those who work long hours take an advantage over those who would be disposed to work short hours, and the competition obliges us to do the same.

789. Messrs. ALEX. HARVEY and SON, Govanhaugh Yarn Dye Works.—We employ only eight or nine boys, and only one female. Our usual hours of work are from 6 to 6; very seldom any overtime. The latest hours of work there are from 7 to 8 o'clock. We employ about 45 people altogether.

790. These boys are not employed in connexion with the machinery. It is all hand-work. This is the case with all yarn bleaching and dyeing.

791. The little machinery we have are the hydro-extractors for drying the yarn, and boys are not employed about that. This is a mere fraction of the process, and could be dispensed with altogether.

792. The hydro-extractors will dry as much yarn in four hours as the boys would do in a day, but this is an accidental circumstance. If the demand on us were greater, we should employ more boys.

793. Our yarn is wanted at particular seasons of the year chiefly; we have four seasons in our particular connexion, two for America, and two for London. The merchants cannot give us a longer notice than they do, because they themselves do not know till the last moment what may be wanted for the markets they are called upon to supply. We dye various fancy colours; it is all cotton yarn.

794. We are not obliged to work overtime from the want of hands; the nature of the employment and the wages paid are such that we can always command a supply of hands.

795. The machinery which we employ is of so trifling a nature that we could do away with it at a day's notice. It would be a loss to us to a certain extent to do so, but we might prefer that to the alternative of coming under the operation of an Act for limiting the hours of boys' labour.

796. The other alternative is, that we should have to take into our employment more boys on those occasions when we wanted to work longer hours.

797. The age of our boys is from 13 to 16 and 17. It is very light work, in a room perfectly cool.

798. Mr. MCCALLUM, Yarn Dye Works, Govanhaugh.—We employ, when busy, about 150 persons, of whom about 12 to 18 are females, and 24 boys.

799. Our regular hours are from 6 to 6, Saturdays included, with two meal hours. If they like to work from 4 a.m. on Saturday mornings in order to get away at 2 or 3, we do not object to it.

800. We have no objection to the factory hours, and it would not be any great inconvenience to us to have only an hour and a half at meal times instead of two a day as at present, so as to stop on Saturdays at 2.

801. Mr. J. GEDDES, Govanbank.—We dye cotton and woollen yarn. We employ about 12 to 15 boys, and one female. It is nearly all entirely hand-work in the dyeing The only machinery we have is for grinding indigo.

802. Our hours are from 6 to 6, the same on Saturdays. We have hydro-extractors. If we were to be placed under the factory hours, we should be obliged to say to the merchants who wanted us to work overtime, that we could not do it. Overtime is not profitable to us, for we have to pay higher for it.

TURKEY-RED DYE WORKS.

803. Mr. GEORGE GRAHAM (Messrs. Stirling and Sons, Turkey-red Dye Works, Dalquhurn, Dumbarton).—I am manager of these works.

804. We employ about 350 hands, of whom about 220 are females, and about 45 boys under 18.

805. Our hours of work are, and have been for the last seven years, from 6 to 6, with two hours for meals. We work the same hours on Saturdays, making in all 60 hours a week.

806. We very seldom make any overtime with women or boys; sometimes with about 14 men.

807. There is nothing in the processes of Turkey-red dyeing which prevents our stopping at these hours, as far as females and boys are concerned.

808. On a very wet day we may have occasion to leave our cloth half an hour longer in the drying-stoves, in consequence of not being able to air them in the field at all.

809. This may happen five or six times in six weeks, or perhaps not so often.

810. In those cases, when we cannot put them into the field to dry partially, we have to put them at once into the stoves, and they then take perhaps an hour or an hour and a half longer to dry.

811. The women and girls have to wait doing nothing until they are ready to be taken out of the stove. They sit in cool rooms waiting.

812. If we did not dry that portion of goods that day, it would disarrange our whole work for the next day.

813. About a third of our females work in the stoves, but are not in for more than 20 minutes at a time. This happens for about four hours and three quarters in the whole, in the course of the day. The temperature in which they are then is about 110°. The stoves are cooled down from 180°, dry heat. The rest of the day they are in cool places, and very lightly employed.

814. No boys work in the warm places.

815. The rest of our females work in cool places, in the bleaching and washing departments and warehouses.

816. The difficulties of stopping at an earlier hour on Saturdays than 6 o'clock are these:

817. It takes 21 processes to complete the dyeing of Turkey-red. Each process occupies a day. Our works are laid out so as to enable us to put a certain quantity of cloth through each process every day. If we were to be obliged to stop on one day before the usual time (say, to lose three hours), we should have to provide additional means of drying; for the principal difficulty lies there. The drying is effected in large stoves, heated by flues. Each stove requires, in order to bring it up to its proper heat, 180 tons of coal. When once brought up to its heat, about 3 tons 12 cwt. of coal per 24 hours are sufficient to keep it up. If we were compelled to stop at 2 on Saturdays, we must have an additional stove for that purpose alone. Besides the original great cost of the building, supposing (by way of illustration) that the stove had been standing doing nothing for a week, it would require perhaps as much as 40 tons to bring it up to the proper heat, and all for three hours' work on Saturday afternoons.

818. But the real working of the restriction would be, that we should have to distribute over the whole week the three hours' work lost on Saturdays.

819. This would require us to add, besides an additional stove and additional making-up houses, 10 men and about 30 females.

820. Besides this, the additional accommodation for washing and finishing, in washing-wheels and steam power to drive them, would amount to a considerable sum.

821. As regards those occasional wet days which sometimes oblige us to keep the females for half an hour or an hour longer, I think that a little additional accommodation in our works would enable us to get over that. I disapprove of working overtime, and think there is no reason why the Turkey-red dye-works should not, as far as regards females and boys, stop at 6 o'clock, working 60 hours a week. Whatever washing might be required beyond or after those hours, can be done by men. I do think it desirable that females and boys should be restricted to those hours.

822. With respect to the colour of Turkey-red, and the light required to produce a good preparation for the cloth to take the colour, we put it out at about 8 in the morning, and take it in at latest at 5.

823. If it should be a bad day, we must put it into the stove and dry it off hand at once. It is desirable always to spread it out in the air before putting it into the stoves, both for the preparation and for economy of fuel.

824. If the morning is rainy, and it should clear up in the afternoon, we cannot put out more than we can take up by 5 o'clock; otherwise we should disarrange the whole work.

825. I have been for 15 years conversant with Turkey-red dyeing, and the description I have given of processes at these works is applicable to the whole.

826. Mr. CLARK, Jun., Turkey-red Dyers and Print Works, Leven Water.—We employ about 129 men, 85 boys under 18, and 115 females, in our Turkey-red department, under 16, and 100 above that age.

827. The usual hours of work are from 6 to 6.

828. Sometimes we wish to employ a portion of these females and boys between half-past 5 a.m. and half-past 5 p.m., and at other times other portions of them from 7 to 7. The latter is a rarity,—quite an exception.

829. It is on Saturdays that the females themselves wish to begin at half-past 5, in order that they may finish their work earlier in the afternoon; but this is their arrangement, not ours. In the same way it is at times more convenient for them to begin at 7 and end at 7.

830. As far as our operations in the Turkey-red dyeing are concerned, it would not matter to us if we always began at 6 and ended at 6.

831. The workers have a certain quantity to get through, and they do that easily within the 10 hours, having between 6 and 6 two hours for meals.

832. On Saturdays the hours are nominally the same, but the people voluntarily begin a little earlier, and take less time to each meal, so as to have done by 3 to 4 o'clock.

833. I do not see how we could manage if we were compelled to stop at 2 on Saturdays as each lot of goods takes (say) twenty days to finish, and goes through one process per day. Our works are constructed to enable us to do this. If we were only to do seven hours' work on Saturday instead of 10, we should have to do the three hours' work at some other time; and there is no other time for it.

834. We could not do the work of the other three hours with adult male labour.

835. We should be contented to be allowed to work the 60 hours a week if we were not restricted on the Saturday.

836. We have worked these hours for nine or 10 years, ever since this work was established by us; and on Saturday the females and boys as a general thing leave the work between 3 and 4; some may go a little after 3, and a few a little after 4.

837. Mr. W. Pollock (Mr. Orr Ewing's Turkey-red Yarn Works, Lower Leven Bank).—I am manager of these works. We employ 28 men, 6 boys, and 36 females when we are in full work.

838. We do all by piece-work. The regular hours are from 6 to 6; but in summer, as we wish to take advantage of the light, we often begin at half-past 5 and get over by half-past 4 to 5 p.m. So in winter we begin at 7 and stop about 4. We have two hours for meals.

839. On Saturdays we have only one meal hour, the breakfast hour, and get the work done at 4 at latest; so that we never exceed 60 hours a week. We commenced this work in June 1851, and the hours have been the same the whole time.

840. The works are arranged so as to do a certain quantity every day. It takes 30 days to dye the yarn till we send it away finished. If we were to be stopped by law at 2 on Saturdays, we should stop all day. We could not do a portion of a day's work, as it would throw out the whole arrangements of the work in all the departments of the manufacture.

841. If we were to be simply restricted to the 60 hours per week we should not care, it would not affect us in the smallest degree.

842. Our stoves are never above 110° when the girls are in them, they are often 90°. The girls are in them about 10 minutes at a time. They are then out for an hour or sometimes more. The yarn-drying is very different from the cloth. The girls here will be only one day in the week in the stoves. They are divided into sets, and take it in turn.

843. Robt. Fletcher, clerk (Mr. Orr Ewing's Turkey-red Dye Works for cloth). [The manager was absent.]—Our hours in summer are from 6 to 6. On Saturdays the females and boys generally stop at about 4 o'clock. The hours of meals are one for breakfast and one for dinner. We never begin earlier than 6 o'clock, and all the work is done by 6 in the evening.

844. In winter we do not begin till 7, we then stop at 5, some earlier. There is then only one meal hour allowed, from 10 to 11. The workpeople generally have something with them by way of refreshment, which they take during the day.

845. When we change the hours from summer to winter, we put up notice to acquaint the people beforehand.

846. The reason for changing the hours is, that we require the light for the preparation of the cloth for dyeing.

847. The stoves are on the ordinary principle used in all the Turkey-red works.

848. Mr. Orr Ewing.—We are Turkey-red dyers of cloth and yarn and printers of Turkey-red cloth. We employ upwards of 400 people. Our yarn dye-works are not under the Printers' Act. At these we employ about 100 hands, of whom about 70 are females and boys. For these the hours of labour vary much between winter and summer. In winter, in consequence of the weather, we are sometimes idle for months together. We stopped at the end of last November and began at the end of February. In ordinary years we are not entirely idle more than a month. When the fine weather comes in, we place our yarn in the open air for some hours every day. It may happen that the morning may be unfavourable, in which case we put them out in the afternoon, and make use of as much sun-light as may be serviceable for our purposes. Our regular hours of work are from 6 to 6, Saturdays included, but we allow two hours daily for meals, so that we in fact as a rule only work 60 hours a week. We object to being placed under legislative compulsion to do this, because we so entirely depend upon the season of the year for producing a good colour, and as the processes, which are numerous, must each be finished daily. It takes a month to produce the colour from the time that the yarn is in the grey state. It very rarely happens that our females and boys work any overtime, and then never more than two or three hours, and that seldom more than one day at a time. Such a thing as working 16 or 18 hours a day for weeks together is, in my works, perfectly unknown, and according to my belief in the rest of the trade, the nature of the processes not making it possible.

849. The only hot place which the females and boys have to go into is the stove in the morning, for about three quarters of an hour, taking out the yarn, but the thermometer is not higher than from 80° to 100°. In the evening when they hang the yarn the thermo-

meter will be about 80°, and they are there about the same time as in the morning. All the rest of the day they are either in the open air, or (if the day is bad) under cover, putting the yarn on poles to hang.

850. Mr. FRASER (Messrs. Henry Menteith and Co., Turkey-red Dye and Print Works, Barrowfield, Glasgow).—I am manager of the Turkey-red department of these works. We employ when we are busy, in summer, about 70 men, 120 females and 70 boys.

851. Our regular hours of work in summer are from 6 to 6.

852. Sometimes we have occasion to begin with a portion of the females about 5 o'clock, and they will, as a general rule, have finished by about 5 p.m.

853. If the weather in the morning should be unfavourable, those females might be unemployed for a few hours during the morning, and would have to remain a little longer in the evening. Those will be principally about 10 grown women.

854. The greatest number of our girls are employed in carrying out the cloth and spreading it upon the field, and bringing it in again. It is light work. Each piece of cloth weighs only four pounds on an averge. These girls usually begin in summer at from half-past 5 to 6, and usually get over their work about 3 o'clock in the afternoon.

855. If the morning should be wet, they have to wait on until it clears. If it clears early enough to enable us to put out the cloth, they do so later in the day, and have to wait till it is sufficiently dry to take in again. They may have to wait as late as 6 or even 7 o'clock, never later, because if the goods are put out later than a certain hour, when the sun gets low, they do not bleach so well.

856. The younger girls may be sometimes two hours in the morning, coming and going, in the stoves, taking out the goods. The heat will be then about 110°.

857. The grown up women are employed, the first thing in the morning, in taking the cloth out of the stoves, which are then about 110°. This takes them about two and a half hours. They then make up the same lot for putting into "liquor." This takes them about two hours. After that they commence hanging the goods again in the stove. The temperature then will be about the same. This will take them from 11 till half-past two; their work is then done for the day. About 40 females are employed in that way.

858. In the summer, when we are most busy, another set at the same sort of work may begin rather earlier and stay rather later, as the process then is dependent on the weather, but in ordinary cases they also have finished by 6 o'clock.

859. The boys are employed in the washing, bleaching, and drying departments, none in the stoves. They are employed not more than 10 hours a day, all the year round.

860. The nature of the Turkey-red dyeing process is, that in summer each lot of girls must go through one process each day. The winter process includes two periods when the goods are stationary, for a fortnight at one time, and a week at another.

861. The winter process is carried on both summer and winter. The goods are about three weeks going through the summer process, till they are prepared for dyeing. If they are dyed forthwith they may be finished in another week, but can remain for another in that state, and it is customary to prepare the cloth for dyeing in summer, and to dye it in winter; and the reason is, that we can only prepare it for dyeing in fine weather, but can dye it in any weather.

862. The winter process requires about six weeks.

863. The works are so arranged as to enable us to put a certain quantity of cloth through each process per day. We must consequently work the same number of hours on Saturday as any other day. We, however, very rarely work more than 60 hours a week, and only when we are interfered with by weather or by slight interruptions in our machinery. If anything breaks which we cannot repair in two or three hours, the whole of the works stop for the whole day. The next day would have to be devoted to finishing the process which should have been finished the day before.

864. We cannot work overtime with a portion of our people. The females in the making-up room work just the same hours as the rest.

865. Our yarn workers at Blantyre, where we employ about 250 people, are as regards hours of work the same as these. They are less liable to interruptions from weather than the cloth dyeing, and consequently their hours are more regular. The same principles, as regards the processes having to be gone through one each day, apply to the yarn equally with the cloth.

866. [This evidence was given in the presence of Mr. Robert Reid, a partner in these works, and confirmed by him.]

867. Mr. D. MILLER (Turkey-red Dye and Print Works, Springfield, Dalmarnock).—We employ about 200 persons in the Turkey-red dyeing departments, including cloth and yarn. Our regular hours of work are from 6 to 6, and as our process is the modern one, we very rarely have occasion to deviate from those hours; indeed, the average, throughout the year, is not more than 56 hours. On Friday, in order to give the people an opportunity of leaving off work a little earlier on Saturday, we endeavour to arrange when we can (which happens at times in the yarn, but very seldom in the cloth) that they should go on a little after 6 in the evening; and on Saturday mornings they always begin at 5, so as to stop at 3, half-past 3, or 4 in the afternoon.

868. We also dye fancy yarns, but the hours of work are from 6 to 6, stopping at 3 on Saturdays. The meal hours are two hours a day.

869. Messrs. Fleming, Watson, and Nairn (Turkey-red Yarn Dyers, Little Govan, Glasgow).—We employ about 170 to 200 hands, of whom about a half are females, and about a dozen boys. Our regular hours are from 6 to 6, Saturdays included; and we allow two hours for meals; but on Saturdays we begin at 5 a.m., and have one meal hour from 9 to 10, and then continue on till 3 or half-past 3 or 4, making 60 hours of actual work per week.

870. We should not object to the proposed Bill, but for the interference with the Saturday. We should be very glad of the Bill if it would allow Saturday to be a full day. We should be glad of the Bill because many bleach and dye works work many hours overtime, and only pay the people for one day's work. On Saturday we should want to begin at 5, for the sake of leaving off earlier in the afternoon. The whole work is "turned over" every day, and the process requires a full day. The yarn takes, with us, twenty-one working days to dye. The females are nearly all women.

871. The only machinery we use is for pumping, and grinding madder, and squeezing the water out of the yarn.

872. If any Bill is passed it ought to give us liberty to begin at 5, in order to take advantage of the weather, and to continue till 7 if the weather should be unfavourable during the day.

873. If we had this liberty we would rather have the Bill than not, as it would prevent others working overtime.

874. The females are only in the hot stoves a few minutes at a time for not more than an hour in the day, perhaps only half an hour in all in the stove during the whole day. The rest of the day they are either out in the open air, or in sheds, or working the yarn.

875. James Nuttall (manager of the oiling operations of Mr. Steiner's Turkey Red-dye Works, Accrington, Lancashire). We have 107 men and boys in the oiling place. Of these, 34 are between 8 and 13, and are under the Print Works Act. There are altogether about 60 between 8 and 18.

876. We begin work in the oiling place at 6 a.m., and we generally leave off at 4, 5, and 6. It never exceeds 6.

877. We stop from time to time, so that every one has plenty of time to get their meals, but the nature of the process is such that it must go on without stopping. The first thing we do in the morning is, to put the oiled cloth into the stove. A quantity of this cloth is made ready for us the day before. It lies all night oiled. In cold weather it will lie there without any danger. In hot weather, the last thing the men do in the evening, is to air them. The watchmen during the night watch the cloth, and if they find it heating, they call the men, and it is immediately pulled over the rollers to cool. The boys go home at or before 6 every day. The men stay if it is necessary to air the cloth.

878. James Ashworth.—We have in the mordant room seven lads about 18, and six boys between 8 and 13; between 13 and 18 there are 11.

879. I have been in the mordant room 21 years. I have superintended it about 15 years. The hours are from 4 a.m. to 9 p.m. the longest; generally they do not come till half-past 4 to 5, and generally leave off at half-past 8 to 9.

880. We have done in the stove rooms about half-past 9, taking out the dry cloth. The stoves are cool then. We then have breakfast. At a quarter to 10 we start the machines, and go on till 12, and then commence again with the machines from 1 to 7; but about 4 we take half an hour for tea. Then we fill the stoves again from 7 to 9.

881. Of the 16 boys, four work in the upper part of the room; the thermometer is 100° in summer, and 80° in winter. It is hot from 1 to 7. It need not be hot; it can be made quite cool with a little ventilation. I have been at work in this room 15 years.

882. It is necessary for us to work from 4 or half-past 4 a.m. to 9 p.m., in order to keep straight with the processes that come after us. They go from us to the dye house, and come to us from the oiling operations. It takes many days in the oiling department, perhaps a fortnight; and when the cloth has been finished in the oiling department, it comes to us. We do in the mordant room enough in the day to keep the whole of the dyers at work the next day.

883. The machinery we use is for passing the pieces through the mordant; after that they go into the stoves.

884. The hours of work which I have mentioned (from 4 or half-past 4 till 9) have been going on since the beginning of last year; we were slack before that, about twelve months; and at that time we did not get more than five or six hours a day sometimes.

885. We reckon regular work to be a lot of cloth a day. It takes us from half-past 4 a.m. to 9 at night to do this. We have worked these hours the greatest part of last year.

886. If there were more machinery, another stove, and more hands, the lot could be done in quicker time; but, as it is, we sometimes have part of the machinery idle.

887. ENOCH GRIMSHAW.—I superintended the dye-house. The dyers come in the morning at 6 o'clock, sometimes they come at 5. They generally leave off at 8, but sometimes we go on from 6 a.m. to 10 at night. This happens when we do not get our usual supply of blood from Liverpool. We require five hogsheads of blood a day (bullocks', sheep's, and calves' blood). To supply this, upwards of 100 head of cattle must be slaughtered. We can only get it from the Slaughter-house Company at Liverpool. Before that company started (16 or 18 years ago), we had to collect it from all the little butchers in the country by small casks full. It was very impure, and the supply irregular. There are 80 men and boys in the dyeing department, of these about 60 are under 18 ; there are 45 between 8 and 13, and 15 between 13 and 18. The short-timers come at 6, and sometimes those above 13 come at 5 and stay, as the men do, till 10 and 11. When we have plenty of blood to go on with, we work till 10 and 11 ; this is in order to make up for time lost when blood has run short. From the month of August up to March and April it will be difficult to get ; there is in winter a demand for it in Liverpool for other purposes. Generally speaking, in the summer we are on the premises about 14 hours, and sometimes from 5 a.m. to 10 p.m. to make up for lost time ; but during those hours there are many stoppages ; we have to wait until the work is ready to come out of the dye-vessels. The cloth is in the dye-vessels about three hours at a time. It requires 12 boys to watch the dye-vessels, looking through the glass plates to see if the pieces are running in regular order, the rest have nothing to do during those three hours. Those 12 rest an hour and a half when that lot is taken out, until the vessels are filled again. The vessels are filled three times in the course of the day, when we are working long hours ; we should then be 14 to 15 hours on the premises, and the 12 boys who watch the vessels are always resting an hour and a half after each time of emptying them. These are always the same boys. The boys employed in emptying and filling are only busy four and a half hours in each day. They are too young for any other operation.

888. All these boys between 8 and 13 are under the operation of the Print Works Act.

889. There are no children employed in the other processes, except in the making-up and packing-room.

890. [JAMES PILKINGTON. I am a headman of the finishing-room. We have four women and 5 little girls, and three men. Our general hours are from half-past 6 a.m. to about half-past 7 at night ; but when we are not very busy we stop at 6.]

891. STATEMENT as to the effect of the BILL on the TURKEY-RED DYERS, who (in consequence of the tedious nature of the process) are very few in number.

892. The following is Mr. Steiner's case :

893. Mr. Steiner is a Turkey-red dyer, and a printer of Turkey-red pieces, and carries on business at Church, near Accrington, in Lancashire.

894. In addition to those pieces which he prints, a considerable quantity are dyed by him both by commission and for sale. He employs a considerable number of children under 10 years of age, and many females and young persons under 18 years of age, in his dyeing and printing works, and they are under the superintendence of the inspectors and sub-inspectors of factories by virtue of the provisions of the Act 8 and 9 Vict. cap. 29, being an Act to regulate the labour of children, young persons, and females in print works. This is in consequence of his being both a printer and a Turkey-red dyer. The Interpretation Clause of that Act is to the effect that any person employed in printing, or in any incidental printing process, comes within the meaning of that Act ; the same Clause states that the words "incidental printing process" shall be taken to mean any process of preparing, dyeing, bleaching, cleaning, calendering, &c., carried on within any building, shed, &c., adjacent to each other, or forming part or parts of the establishment where the chief portion of printing, &c., is carried on.

895. By the Bleaching, &c., Works Bill, now before the House of Commons, entitled "An Act to regulate the Employment of Females, Young Persons, and Children in Bleaching, Finishing, and Dyeing Works," Mr. Steiner will be very seriously affected, as well as all other Turkey-red dyers.

896. The provisions of the proposed Act prohibit the employment of children, and limit the hours of employment of females, and young persons under 18 years of age, from 6 in the morning to 6 in the evening on all days but Saturday, and on that day from 6 in the morning to 2 o'clock in the afternoon, and a stated allowance is to be made during those periods for meals. Turkey-red dyeing is not an arduous employment, but the process is a very tedious one, requiring extreme care and regularity, and constant attention, as the goods whilst in operation are liable to heat, and if neglected will ignite, and notwithstanding all due vigilance are liable to spontaneous combustion. In fact Mr. Steiner, notwithstanding all his attention, has had a great number of fires in his establishment. The employment of children is not in the least toilsome ; their duties are merely to watch the goods whilst the process is in course of operation, and this is only required occasionally, during the regular working hours ; consequently the children are at play a great portion of their time ; yet it is necessary they should be within call when wanted.

897. There is also another particular feature in Mr. Steiner's case, and that is, if labour is prohibited and limited, as proposed by the Bill, it will be absolutely ruinous to the

process; inasmuch as goods in operation left over night, or for a much less period in particular stages, would injure the colour, and so render the goods worthless, it being necessary that the process when commenced must be continued until completed; and as the hours of working on Saturdays are limited to 2 o'clock p.m., the Bill would of necessity make the working week in Turkey-red dye-works to consist of five days only; inasmuch as it would not be practicable to commence the process on a Saturday if limited to 2 o'clock.

898. On reference to the preamble of the present Bill, it would appear that it is intended to except persons from its operation who are within the provisions of the 8 & 9 Vict. before referred to, and, as before stated, Mr. Steiner's dye-works have been under that regulation. Yet it would appear that, as far as relates to dyeing not incidental to printing, that is, dyeing goods by commission and for sale without printing, then Mr. Steiner's will be within the present Bill; therefore he will be under two Acts limiting labour, both different in their provisions. And there is no doubt that if Turkey-red dyers are not excepted from this Bill, the trade of Turkey-red dyeing will be driven to those countries where its already too tedious operations will not be subject to any legislative interference.

IRELAND.

Chiefly Linen Bleach Works.

899. Mr. Alex. Hunter, Dunmurry Bleach-Works, Belfast.—I bleach linen only, and employ about 40 hands, of whom none are females and only one boy. The usual hours are from 6 to 6, or rather seldom beyond 4, except the housemen who work at night. I have no stove here; but at Denaighte, near Lisburn, I have one, but it is not now in use. The females there worked almost invariably from 6 to 6 only, with an hour and half for meals; Saturdays the same. I employed there from 14 to 18. It will be at work again when trade improves.

900. I should prefer that adult females, say of 30 years old and upwards, should be at liberty to work as many hours as they could agree for with their employers. They are generally quite equal to constant work, and if they have a family by that time the eldest daughter can take care of the younger children. There is no difficulty hereabouts in getting female labour, it is a very populous neighbourhood.

901. As we have occasion sometimes in summer to work overhours, and as females only can do the work in the stove, I should like that females above 30 years old should have the power of working occasionally (say) not exceeding two or three hours after 6 p.m. (beginning not before 6 a.m.). This would obviate a great many objections.

902. I think at the same time that, if there is to be an Act for England and Scotland, Ireland ought not to be exempt.

903. I see no objection to having relays of females if each relay did not continue at work longer than 10 hours in every 24. I consider it hard upon the capitalist, while exposed (as he is) to the competition of foreign countries, to keep his capital idle 13½ hours out of the 24. The objection to females working at night does not apply in country places like this. These remarks embody my opinions upon the subject.

904. Messrs. Richardson & Co., Lambeg Bleach-Works, Lisburn.—We bleach linen only, and employ in a slack time like the present about 300 people, of whom 136 are females and about a dozen boys.

905. The females are chiefly employed in the stoves finishing handkerchiefs. Their usual hours of work are from half-past 5 a.m. to 6 p.m., with intervals of 2½ hours for meals and rest. On Saturdays they begin at the same time and stop at 2 o'clock. The temperature of the stoves ranges from 80° to 100°. Our working heat is 90°; occasionally it will get up higher, but very rarely, depending upon the weather, and the ventilation, which is regulated by the overlooker in the room. Our object is to keep the atmosphere dry, and the heat at 90°.

906. The boys are principally employed on the grass, and leave work at from half-past 5 to 6, beginning at half-past 5, except in winter, when they come and go with the daylight unless when stopped by frost or snow.

907. The hours are regulated by the town clock of Belfast.

908. We seldom, if ever, had an accident from our machinery. Where we consider it dangerous we box it off.

909. We have an infant school, a boys' school, and a girls' school, built and supported by ourselves. We have a contribution in books from the Church Education Society. We pay ample salaries to the masters and mistresses; and give them houses furnished and rent-free, so as to secure the services of superior teachers.

910. We make it a rule not to employ boys under 14, and we insist upon our own work-people sending their children to school.

911. In winter we are liable to be stopped altogether for weeks continuously by frost and snow. We are obliged after that to work up lost time, as cloth will have accumulated. We, therefore, on such occasions work overtime up to 8 or 9 o'clock from three to five

consecutive days during a month or six weeks. This depends upon the length and severity of the previous winter. But although the last winter was both long and severe, we have made such arrangements as will prevent the necessity of our working the females overhours at all for the future.

912. As we allow our women in the stoves 2½ hours for meals and rest, their net hours of work are only 10.

913. As to the boys employed in the field, it may happen in consequence of the irregularity of the weather that they may not begin their work till late in the day, and remain late in consequence, rarely beyond 7.

914. This irregularity of the field-work does not interfere with the stove-work so as to keep them over 6 o'clock. It interferes with the boiling-work where we have no boys.

915. The females never start at all unless they can begin at the breakfast hour at the latest.

916. Mr. JONATHAN RICHARDSON (partner in Messrs. J. N. Richardson, Sons, & Owden's Glenmore Bleach-Works, Lisburn).—We bleach linen cloth only. We employ 165 males (of whom about 20 are boys under 18) and 300 females.

917. The regular hours of work are from 6 a.m. to half-past 6 p.m., off two hours for meals, and we stop on Saturdays at 3 o'clock. These are the hours for the whole establishment.

918. Nearly all the boys are employed in the field in taking up the pegs, and unravelling the pieces. We rarely work extra hours, and when they do it may be up to half-past 8 p.m.; but it is rare to keep the boys up to that time.

919. We have had occasion to keep the females overtime for an evening or two in the week, but we avoid it if possible, as we find it is not profitable. Within the last year they may have been employed overtime about 50 or 60 evenings; sometimes a few later. There are 21 between 12 and 14 years of age, and four between 11 and 12.

920. The working temperature which we endeavour to maintain is 90°; it is not advantageous that it should be hotter; the temperature will occasionally increase from accidental causes. When you were in the stove it was 100° and 101°, but it was the first warm day, and the heating had not been adjusted to the change of weather.

921. There are not more than eight or nine linen bleach-works in Ireland where there are stoves, and we probably employ nearly half the number of females to be found in them.

922. Messrs. J. and W. CHARLEY & Co., Linen Bleach-Works, Seymour Hill, Belfast.—We do not employ females, and only a few boys, and they have generally done their work by 4 p.m. We employ about 80 people.

923. GEORGE THOMPSON (Mr. Robert Howey's Bleaching and Dyeing Works, Old Park, Belfast).—I am foreman of the "lapping" (making-up) room at these works.

924. We have eight females in the making-up room. Our regular hours are from 6 to 6, but when the trade demands it we go on till 10, and sometimes all night, with the same set of hands, but not more than one night at a time, and this happens very seldom; sometimes we may have to go on two or three nights following till 10, sometimes for a whole week. In the beginning of 1853 we were very busy, all March, April, and May, and then we had for a good part of that time to go on to all hours, up to 10 o'clock, and all night. If there were to be another busy time we should have to do this again.

925. Again in the autumn, in preparing for the spring trade, we are liable to have these busy seasons, and to work on the same manner as in the spring. When there is work to do there is no limit of time.

926. The work is hooking and making-up.

927. When we have much work, we have about a dozen females in the room, and two boys.

928. Mr. MCNAUGHTEN (Mr. Robert Howey's Printing, Bleaching, and Dyeing Works, Old Park, Belfast).—I am manager of this establishment. We bleach linen and cotton.

929. We employ 20 females in the stove from 14 years of age upwards. The hours are from 6 to 6; occasionally they are employed half a night, i.e., up to 10 o'clock. This is done as seldom as possible, and depends upon the pressure of business. It is only when there is a pressure through the whole establishment that this goes on at night till 10 o'clock, and it is never to my knowledge later. It must happen about the same seasons of the year as has been described for the lapping room.

930. The temperature in the stove is about 100°. This is hot air, consequently it is far less prejudicial to health than steam heat. We had steam heat in the stove, but found the hot air both more profitable and much more healthy for the people.

931. In the bleaching establishment we have none but adults.

932. The dyeing establishment is connected with the print works, and comes under the Print Works Act.

933. We have beetling machines, but do not employ females at them.

934. Mr. JAMES GRAHAM (Mr. Wm. Ewart & Son, Glenbank Linen Bleach-Works, Belfast).—I am manager of these works.

935. We employ only 24 females in the stove. The regular hours are from half-past 6 a.m. to half-past 6 p.m. all the year round, allowing two hours and 20 minutes for meals and rest. The temperature is kept at 90° as near as we can. It is steam heat We have no extra hours in the stove. No girls are fit to work in this heat longer than the regular hours. If we have more work to do, we put on extra hands to our other frames.

936. We have three females in the mangling house, who work from 6 to 6.

937. We have only a few boys in the beetling house, and they are near the age of 18.

938. We finish cotton goods in the beetling, as well as linen.

939. Mr. J. F. FERGUSSON'S Linen Bleach-Works.—We employ about 20 to 30 people, no females. Our hours of work are from 6 to 6 regularly.

940. We have no boys in the beetling, and only two in the bleaching. We have no stove.

941. Mr. Fergusson's, of White Rock, is a similar establishment to ours; he has no stove, and employs no females.

942. Mr. JOHN ROBERTS, Collin Green Linen Bleach-Works, Lisburn.—I employ no females, and only four boys. The boys are not employed at night, except very occasionally, when we have a press of work.

943. Mr. JAMES FERGUSSON & SONS, New Forge Green, Belfast.—We bleach linen and linen yarn. Our regular hours in summer are from 6 to 6, from February to November.

944. We employ, when we are busy, about 60 females and 60 men, only six boys. Six of the females are at times employed all night,—mostly about three months in the winter. They are in the stoves moving the yarn. Two men are employed with them. If an Act passed forbidding the employment of females at night, we should employ four men instead of those six females. The boys are about 15, they are never employed at night, and never, scarcely, after 6. They gather the pins on the green. We do not want boys after 6, they can get through their work before.

945. We have never any overtime but from November to February, the females work from 8 a.m. to 8 p m.

946. If we were not to be allowed to continue those hours for the females, but were permitted to employ them from 7 to 7, we should not begin till 8, they would then breakfast before they came, and we should then stop at 7 p.m. without inconvenience. We allow two hours for meals. We work the same hours on Saturdays as any other day, but they generally get over their work earlier, about 4.

947. Mr. G. PELAN, manager (Mr. Wallace, Glengormby Linen Bleach-Works).—We employ one female, and no boys whatever. We employ about 50 people altogether.

948. Mr. BELL (Messrs. Fenton, Son, & Co., Hyde Park Linen and Cotton Bleach-Works).—These works commenced a year ago. We employ altogether about 150 people, of whom 37 are females; we employ very few boys, our work is too heavy for them.

949. Our regular hours of work are from 6 to 6, allowing two hours for meals. The hours on Saturdays are nominally the same, but they leave off earlier. We have only worked overtime during a portion of one week, when the females worked all one night, and part of two other nights. The trade has been slack. If it were to be brisk, we might very possibly work as late as 9 o'clock, as long the pressure lasted; but we consider long hours undesirable for the masters, as the work is not properly done. When we work overtime it has been to oblige customers, and not for our own profit.

950. The temperature in the stoves where the females work is from 85° to 95°. We have made preparations for employing as many as 100 females, if the state of the trade requires it.

951. We employ no females in the beetling houses.

952. Mr. GILMAN, Mr. O'HARA, manager (Mr. Gray's Linen Bleach-Works, Gray Mount, Belfast).—We employ about 60 people; no females or boys in the bleaching department, but in the "lapping room" we have five under 18.

953. Occasionally, when trade is brisk, we employ these boys late in the evening, sometimes up to 8 and 10 o'clock and after; occasionally for several weeks together.

954. Mr. BRAGG (Messrs. Bragg and Dobson, Cotton Mount, Belfast).—We bleach and finish linen and muslin, worked and plain. We employ about 290 persons, of whom about 146 are females and about 40 boys. Our regular hours of work are from 6 to 7, with about two hours for meals and rest.

955. The females and boys are principally employed in the stoves, of which we have four, the temperatures in which are about 85°, 90°, 95°, and 110° respectively.

956. It occasionally happens, when there is a press of work, that we employ one set of females (five) from 9 p.m. to 6 a.m.. They work in one of the stoves with a man and a boy.

957. It occasionally also happens, about once in two or three months, that all the females are required to work till about 9 o'clock. We do not wish it, but we do so to oblige our

customers. From 6 to 7 is as long as we like to have them employed. As we give them two hours for meals and rest, if an Act were to pass limiting the hours to between 6 a.m. and 6 p.m., with an hour and a half for meals, it would not make any material difference to us.

958. Of the total number of females, between 20 to 30 are from about 13 to about 16. A few boys only are in the stoves; they are principally employed in the wet department.

959. I am not aware that there is any other muslin bleach green in Ireland, except this and Mr. Bell's, at Balyclare.

960. Mr. JOSEPH LINDSAY (Mr. John L. Bell, Ballyclare).—I am the manager of these works. We bleach fine muslins only, worked and plain (for ladies' collars, &c.). We employ about 150 people, of whom about 100 are females, and about a dozen boys.

961. Our regular hours of work are from 6 a.m. to 7 p.m., with two hours for meals and rest.

962. At present we are working from 7 a.m. to 6 p.m., as trade is slack. When trade is brisk, as it was about a year ago, we sometimes had occasion to go on for a fortnight or a month together up to 8 and 9 o'clock, but the people are paid extra for that; the females make from 7*d.* to 10*d.* per day, and if they work overtime they are paid in proportion; 2½ hours overtime would come to 1½*d.* or 2*d.*, and up to 2½*d.* They are quite willing to give this. The temperature of the stoves where they work is 90°; this is the regular working heat, and we keep it as near that as possible.

963. At those times when we are very busy we sometimes have a set that works at night from 6 p.m. to 6 a.m. There might be 20 females in that set, and one boy. We would much rather not work overhours, as the people are not so fit for their work the next day.

964. In the making-up room, where there are eight females, they work the extra hours when the rest do.

965. In the hot stove-room, where there are about 70 females, I do not think there are more than eight girls between 12 and 16, and the rest are chiefly between 16 and 20; some few are grown up women. In the airing-rooms, which are not so hot, they are mostly grown up women; in the hot "braiding" stoves, where the muslin is pulled and stretched to make it even, they are mostly the young ones.

966. Mr. HENRY MARTIN, manager (Messrs. Thomas and Charles Richardson, Springfield, Lurgan).—We bleach and finish cambric handkerchiefs only, and employ 39 females and about 24 men.

967. Our hours for the females are from half past 7 a.m. to half past 6 p.m.; but oftener they have done at 6.

968. We very seldom have any extra time in the stoves, only when trade happens to be very brisk, but then not later than 8, and that not often. The only night work is at the beetles, but we have no females there. There is only one boy on the works.

969. Mr. NICHOLSON, Donacloug, Lurgan.—We only employ three females, and one or two boys; occasionally we have a few girls employed in the stove drying handkerchiefs, but they do not work overtime.

970. Mr. FENNELL, Banbridge.—I finish cambric handkerchiefs. I employ about 60 females in the stove-room. Our regular hours of work are from 6 to 6, with 1½ hours for meals; and we leave off on Saturdays at half-past 2.

971. We seldom work overtime, unless a press of goods comes in. We have room enough to extend the number of hands in case of necessity.

972. The temperature of the stove is 90°. The age of the youngest girls is between 12 and 13; but we have very few so young.

973. Mr. ROBINSON, Ballydown Cambric Bleach-Works, Banbridge.—I employ between 40 and 50 females, who work chiefly in the stove; and about 15 to 20 men. The regular hours of work are from 6 to 6 in summer, though seldom so long; and in winter from daylight to dark. The temperature of the stoves is 80° on an average. Sometimes we work overtime, but not as a general thing, only when we have a quantity of cloth to get ready by a certain day. In those cases we may go on till 8 or 9 o'clock, seldom later. We never like night work, as the work is not so well done, and we sometimes have to do it over again.

974. The few boys we have (about 10 in all) are employed upon the field, and have generally done work from 3 to 6.

975. In the "lapping" room the hours are the same as in the stoves, but we seldom work overhours there. We have no regular set of females in that room; when they are wanted we bring them from the stoves.

976. [Mr. Crawford has a linen bleach-work above, but they do not employ females, and only a few boys on the field. About 15 or 16 people employed.]

977. Mr. JOHN MULLEN, foreman (Mr. Hill, Linen Bleach-Works, Banbridge).—We employ about 20 people; no females or boys.

978. Messrs. JOHN SMITH, WEIR, & Co., Linen Cloth Bleach-Works, Milton, Banbridge. —We employ no females, and only one boy. We only bleach heavy goods.

979. Mr. WM. MEEK, foreman (Mr. Hayes, Millmount, Banbridge).—We bleach linen cloth and diapers, and employ about 30 people, of whom four are boys under 18. We employ no females.

980. The boys are employed in beetling engines, and when required they take their night turn every other night with the men.

981. The usual hours of work are from 6 to 6, with two hours for meals, and the same on Saturdays.

982. Mr. M'CLELLAND, Barville, Banbridge.—We bleach linen cloth only, and employ no females, and only one boy.

983. Messrs. J. & W. UPRITCHARD.—We bleach linen cloth, diaper, and damask, and employ about 90 people, of whom only three are females, and about 14 boys.

984. Ten of the boys are employed in the beetling machines, and work time and half-time turn and turn about, i.e., every other night. They begin work at 6 a.m. and work to 6 p.m. for the regular day; every other night they go on till 6 the next morning, but have only occasion to attend to the machines for half an hour in every three. They can sleep the rest of the time. Six are from 13 to 16, and four from 16 to 18.

985. In the "lapping" room we have four females, neither of them very young. They do not work extra hours one night in a month, even when trade is brisk.

986. My opinion is, that as the boys at the beetling machines at night have so much time to sleep, it is not injurious to them.

987. Messrs. HOUGHTON and FENNELL, Banford Green, Gilford.—We bleach linen cloth, cambric handkerchiefs, and other kinds. We are general linen bleachers. We employ about 70 people, of whom 11 are boys under 18, and one female.

988. The works go on at night, and the boys take their turn every other week. The regular hours of work are from 6 to 6, with two hours for meals.

989. The night-work is chiefly in the beetling machines and in the washing department.

990. On Saturdays the hours are the same.

991. The men average 2*s.* a day at task work (beetling), spreading cloth; the day men 15*d.*; the boys from 8*d.* to 1*s.*

992. Mr. PELAN, manager (Mr. Herring's Cambric Handkerchief Finishing Works, Waring-town, Lurgan).—We finish cambric handkerchiefs only, and employ about 24 females in the stoves. Our regular hours of work are from 6 a.m. to 7 p.m. in summer, and from 8 a.m. to 8 p.m. in winter, with two hours for meals, and half an hour besides at the hours of 11 and 5, for rest; so that the working hours are only 10 a day. The heat in the stoves for the lighter kinds of goods is about 90°, but for the heavier goods 95°. On Saturdays they leave off at 5.

993. We rarely work overtime, only when required to execute a shipping order, when we may work till 12 o'clock at night. They are paid for half a day extra for 3 hours work, as they rest an hour at 8.

994. We have only two boys.

995. In our "lapping" room, we have four or five females, and 10 or 12 boys; we employ 75 people altogether. In the lapping room we work overhours when we require it, at the same time generally as in the stoves. The lapping room is about 160 yards from the stove room, only on separate premises, but making a part of the same business.

996. We do not bleach at all. The only machinery we have is a blueing mangle and two beetling engines. The latter go at night sometimes, and four boys attend them with the men. We prefer working only till 12 at night instead of all night, when night-work is required.

997. Mr. JOHN KIRK (Wm. Kirk, M.P. and Son, Linen Merchants and Bleachers, Anndale, Keady).—We bleach and dye linen cloth only, and employ about 400 people, of whom 40 are boys under 18 working in the bleaching works, attending beetling machinery, and 14 apprentices in the lapping room. The apprentices very rarely work any over-time, except at very busy times; most of them are very nearly 18 years of age; we do not like to have boys under 15 in any branch of our work.

998. The hours of work for the boys in the beetling machinery are from 6 to 6, with two hours for meals; their work is not constant; they are an hour together at their work, are then an hour waiting until the beams are ready to be changed; they work, therefore, only 7 hours in the 12.

999. Every alternate month they take the night work, the machinery going constantly from Monday morning till Saturday night. Their hours of work at night are the same as in the day.

1000. They are all paid by the day, according to their merit; boys from 6*d.* to 9*d.* per day.

1001. At some works (but not in this neighbourhood) they are paid by the job, and are consequently liable to work overtime.

1002. We have no females in our employment, except two who mark the cloth.

1003. At our dye-works we have only two boys, attending the booking rollers.

1004. The only effect as regards ourselves of an Act passing which should prevent night-work for boys would be, that we should dispense with the labour of half the boys, which we should consider a disadvantage to themselves and their parents.

1005. We should keep the boys for the day-set, and substitute a less number of men for the night-set.

1006. This is the third or fourth largest bleaching work in Ireland; the other large ones are, the Messrs. Richardsons', of Lambeg and Glenmore; the Messrs. Barclays', of Mullaghmore, near Balymoney; and Mr. Chaine's, of Antrim.

1007. [The only other bleach-works in this neighbourhood are Messrs. KIDD's, Mr. WYNNE's and Mr. STRINGER'S, a very small work employing about 12 men.]

1008. Mr. KIDD (Messrs. Kidd and Son, Dundrum, Keady).—I employ no females, only 10 or 12 boys. Those whom I do employ are at the beetling engines, and part of them will work the night set; but we have recently introduced a mode of turning the beams which enables us to dispense with boys nearly altogether; we find men better for us. I employ about 150 people altogether.

1009. Mr. WYNN, Lisler, Armagh.—I only employ one boy at night; this is at the beetling engine. I have no females employed, except one marking cloth.

1010. I employ about 70 people altogether.

1011. Mr. CHAINE, Muckamore Linen Bleach-Works, Antrim.—Our hours of work are very seldom so long as from 6 to 6. We have very few boys; they are never employed more than that; seldom so long.

1012. We do not employ females; we have no boys employed at night.

1013. I employ altogether 174 people in the bleaching department.

1014. We dye as well, but we have not a boy or female employed in the dye-works.

1015. Mr. WALLACE, Dunadry Dyeing Works, Belfast.—I dye and finish linen and cotton goods. I have no boys under 18 years of age, nor any females. The beetling engines go on at night, but I never employ boys at them at night. I employ from 80 to 100 people altogether. The regular hours of work are from 6 to 6.

1016. [Mr. MACCAULAY'S works and Mr. KERR'S, at Randalstown, are similar establishments to this one, and do not employ boys under 18, or females.]

1017. Mr. HUNTER, Linen Dyeing and Finishing Works, Islandraigh, Dunadry, Antrim.—We employ no boys or females at night-work. Our regular hours are from 6 to 6. We have only two boys at our three establishments. We employ about 50 people altogether; we have a making-up room, but only one man employed in it.

1018. Mr. DICKEY, Ballymena Linen Bleach-Works.—I employ about 60 people altogether, and only one or two are females; merely at making-up, but never at night; and have no boys at all. We have only one boy in the making-up room, but no females.

1019. Mr. MORAN (Mr. W. Gihon and Sons, Lesnafillan Bleach and Dye Works, Ballymena).—We employ about 100 people, of whom only two or three are females, and three boys under 18. These are very rarely employed much after 6.

1020. Mr. YOUNG, Linen and Dyeing Works, Ballymena.—We employ no females, and only two boys, who are not employed at the beetling later than 9 o'clock at night. We employ from 40 to 50 people altogether.

1021. Messrs. BARCLAY, Mullaghmore, Ballymoney.—We employ when busy about 60 people altogether. We bleach linen and cambric handkerchiefs. We have only about eight boys under 18 at the beetling engines. These boys go to work at 5 or 6 a.m., and go on to 5 or 6 p.m. These are the regular hours, during which they have frequent short intervals, when they are not required,—intervals of from half an hour to four hours each, according to the nature of the finish required. It is, therefore, exceedingly light and easy work, and they are not exposed in any way to wet or cold.

1022. We very seldom have occasion to employ them later than these hours; we have, in fact, very little night-work in the course of the year. When they work at night, they have longer intervals of rest than during the day.

1023. As regards our works, the effect of limiting the hours of boys at a beetling engin would be, that we should dispense with them altogether by a very simple application of machinery. We should have no difficulty in supplying their places by boys above 18.

1024. We employ about 50 females. These very seldom work overtime. Their hours in summer are from 6 to 6; in winter, from daylight or from 8 o'clock to 4 or 5 p.m., as a general rule. That is in the stove room, and the same applies also to the rest. The heat n the stove is about 90°; that is the temperature we endeavour to maintain.

1025. Messrs. BENNETT and ADAMS, Linen Bleach-Works, Ballymoney.—We employ about 40 people altogether. We bleach linen only, and employ only three boys under 18, and three females.

1026. The boys are employed at the beetling engines, and begin work at 6 a.m., and generally stop at 6; but taking the year round, on an average, for about two days in the week they make a day and a-half, working, therefore, till 11 p.m., but with frequent intervals of rest; three-fourths of the whole time they are waiting until the engine has done its work.

1027. Mr. ADAMS, jun., Gorton Bleach-Works, Ballymoney.—I only employ three boys and no females; and at present only a few men. The boys are employed at the beetling engines, and they work at night; but, by arrangements with each other, they have a great portion of every night for rest.

1028. Messrs. HEMPHELL, HUNTER, and Co., Linen Manufacturers and Bleachers, Greenfield, Ballymoney.—We employ about 30 people altogether; we only employ three or four boys, and no females. The boys from 12 to 14 and 16 years of age. They begin work at 6 a.m., and go on till 10 p.m., when there is a press of work; sometimes, on rare occasions, to 11 every alternate night.

1029. Mr. JAMES HANNA (Messrs. Carey, McClelland, and Co., Ardmore Bleach-Works, Londonderry).—Mr. McClelland is absent. We employ about 80 people altogether. We bleach linen and cotton goods; we do not emp oy any females, only about 12 or 13 boys, under 18; but they have generally done their work before 6 o'clock, and are not employed at night, except occasionally one or two at the wash-mills. They begin at 6 p.m., and leave off at 6 a.m. Just two do this nearly constantly. They change week about with the day set. They may be one about 15 and the other about 17. They have been at this work a few months.

1030. We have also five boys in the lapping room. They begin work at 6 a.m., and generally leave off at half-past 6 p.m.; sometimes it is a little before that, sometimes a little after. When we are very busy, they go on up to 8 and 9 o'clock, and later than that some odd times in the winter, when we are busy preparing cloth for shipment. It might be once or twice during a month that they are kept all night. In years when the trade has been very good, they have been kept up one night in a week, but that would not last many weeks, and they have the next day at home. We have no females in the lapping room.

1031. This is the only bleach-work in this part of the country. Mr. O'NEIL'S work is stopped. The two bleach-works near Spamount, 20 miles off, are small works, of the same nature as this.

IRELAND.

1032.—BLEACHING AND FINISHING WORKS.

—	Bleachers and Finishers of what description of goods.	Number of people employed.	Number of females employed.	Number of boys employed.	Usual Hours of Work.	Time allowed for meals and rest.	Overhours for females and boys.	Temperature of Stoves, where in use.
					A.M. P.M.	HRS.		DEG. FAHR.
Mr. Alexander Hunter, Dunmurry, Belfast.	Linen-cloth	40	None.	1	6 to 6	1½		
Mr. Alexander Hunter, Denaighte.	Works not now in use.	—	18 when works in use.					
Messrs. Richardson & Co. Lambeg, Lisburn.	Linen-cloth, and Irish cambric handkerchiefs.	300	136	12	5½ to 6	2½	Occasionally in winter to 8 or p.m.	80 to 100, generally 90
Messrs. Richardson & Owden, Glenmore, Lisburn.	Linen-cloth, and handkerchiefs.	465	300	20	6 to 6½	2	Occasionally to half-past 8.	Working temperature 90
Carried forward -		805	454	33				

—	Bleachers and Finishers of what description of goods.	Number of people employed.	Number of females employed.	Number of boys employed.	Usual Hours of Work.	Time allowed for meals and rest.	Overhours for females and boys.	Temperature of Stoves, where in use.
					A.M. P.M.	HRS.		DEG. FAHR.
Brought forward - - -	- - -	805	454	33				
Messrs. J. & W. Charley & Co., Seymour-hill, Belfast.	Linen-cloth	80	None	2	6 to 6			
Mr. Robert Howy, Old Park, Belfast.	Linen-cloth, and cotton-cloth.	—	32	2	6 to 6	—	Sometimes to 10 p.m.; and occasionally all night.	100
Mr. Wm. Ewart & Son, Glenbank, Belfast.	Linen-cloth, handkerchiefs and cotton goods.	—	27	—	$6\frac{1}{2}$ to $6\frac{1}{2}$	2 and 20 min.	None	90
Mr. J. F. Fergusson, Crumlin-road, Belfast.	Linen-cloth	30	None	2	6 to 6			
Mr. John Roberts, Collingreen, Lisburn.	—	—	None	4	6 to 6			
Mr. James Fergusson & Sons, New Forge, Belfast.	Linen and linen-yarn.	126	60	6	6 to 6 in summer; 8 to 8 in winter.	2	A few females sometimes all night.	90
Mr. Wallace, Glengormby, Belfast.	Linen-cloth	60	1	None.	—			
Messrs. Fenton, Son, & Co., Hyde Park, Belfast.	Linen and cotton-cloth.	150	37	—	6 to 6	2	Rarely	85 to 95
Mr. Gray, Gray Mount, Belfast.	Linen-cloth	—	None	5	6 to 6	—	Occasionally.	
Messrs. Bragg & Dobson, Cotton-mount, Belfast.	Linen and muslin.	290	146	40	6 to 7	2	Sometimes a night set of females; sometimes all till 9. p.m.	85, 90, 95
Mr. John L. Bell, Balyclare, Belfast.	Muslin only	150	100	12	6 to 7	2	Sometimes to 8 & 9 p.m.; sometimes a night set.	90
Messrs. Thomas & Charles Richardson, Springfield, Lurgan.	Handkerchiefs only.	643	39	1	$7\frac{1}{2}$ to $6\frac{1}{2}$	—	Not often to 8.	90
Mr. Nicholson, Donacloug, Lurgan.	Handkerchiefs.	—	3	2				
Mr. Fennell, Banbridge.	Handkerchiefs.	—	60	—	6 to 6	$1\frac{1}{2}$	Occasionally.	90
Mr. Robinson, Balydown, Banbridge.	Handkerchiefs.	70	50	10	6 to 6	—	Occasionally to 8 or 9 p.m.	80
Mr. Hill, Banbridge.	Linen-cloth	20	None	None				
Mr. J. Smith, Banbridge.	Linen-cloth	—	1	1				
Mr. Hayes, Millmount, Banbridge.	Linen-cloth, &c.	30	None	4			Two at night turn sometimes.	
Mr. Mc Clelland, Banville, Banbridge.	Linen-cloth	—	None	1			—	
Mr. J. & W. Upritchard.	Linen-cloth, &c.	90	4	14	—	—	Half the boys every other night; females rarely.	
Messrs. Houghton & Fennell, Banford-green, Gilford.	Linen-cloth, and cambric handkerchiefs, &c., &c.	70	1	11	6 to 6	2	Half the boys alternately at night-work.	
Mr. Herring, Waringtown, Lurgan.	Cambric handkerchiefs.	75	24	14	6 to 7 and 8 to 8	$2\frac{1}{2}$	Rarely, for shipping orders.	90 to 95
Carried forward - - -	- - -	2689	1039	164				

—	Bleachers and Finishers of what description of goods.	Number of people employed.	Number of females employed.	Number of boys employed.	Usual Hours of Work.	Time allowed for meals and rest.	Overhours for females and boys.	Temperature of Stove, when in use.
					A.M. P.M.	HRS.		DEG. FAHR.
Carried forward - -	- - -	2,689	1,039	164				
William Kirk, Esq., M.P. & Sons, Anndale, Keady.	Linen-cloth.	400	2	54	6 to 6	2	40 boys at night-work; 20 every alternate month.	
Mr. Kidd, Dundrum, Keady.	Linen-cloth	150	None	12	—	—	Half the boys at night.	
Mr. Wynn, Lisler, Armagh.	Linen-cloth	—	—	1				
Mr. Chaine, Muckamore, Antrim.	Linen-cloth	174	1	4	6 to 6	—	None	
Mr. Wallace, Dunadry, Antrim.	Linen and cotton.	100	None	None				
Mr. Hunter, Islandraigh, Dunadry, Antrim.	Linen-cloth	50	None	None				
Mr. Dickens, Ballymena.	Linen-cloth	60	2	None	—	—	None.	
Messrs. Gihon & Son, Lisnafallen, Ballymena.	Linen-cloth	100	3	3	—	—	Rarely.	
Mr. Young, Ballymena	Linen-cloth	50	None	2	—	—	Not later than 9.	
Messrs. Barclay, Mullaghmore, Ballymoney - -	Linen-cloth and cambric handkerchiefs.	260	50	8	6 to 6	—	Very seldom.	90
Messrs. Bennett & Adams, Ballymoney.	Linen-cloth	40	3	3	—	—	Occasionally.	
Mr. J. Adams, junr., Gorton, Ballymoney.	Linen-cloth		None	3				
Messrs. Hemphell, Hunter, & Co., Greenfield, Ballymoney.	Linen-cloth	30	None	4	6 to 6	—	Sometimes every alternate night to 11.	
Messrs. Carey, McClelland, & Co., Ardmore, Londonderry.	Linen and cotton.	80	None	13	6 to 6	—	Occasionally.	
	Total.....	4,183	1,100	271				

EAST OF SCOTLAND.

Evidence respecting the Linen Cloth and Linen Yarn Bleach-works.

1033. Mr. Daniel Forbes (Messrs. Patton and Brown, Pittcairne, Perth).—I am one of the managers of these works. We bleach linen cloth, and employ about 20 men, 5 boys, and 15 women. Our regular hours of work are from 2 a.m. to 8 at night; this is in the bleaching; and they go on without stopping, except two hours for meals. In this department we have 5 females; but we are not able always to get them up at that hour, they are so tired. In the other, the beetling-mills, we have 10 women, who go on from 6 to 10, and every other night from 6 a.m. to 6 a.m. the next morning, except that they rest from 10 p.m. till 2 a.m, and then it takes them sometimes an hour or less to shift their beetling beams, then they lie down on the boards again till 5 in the morning, and go on the same way; therefore every alternate night they get home to go to bed from 10 p.m. to 5 a.m. They have all laboured greatly to get the hours shortened. They are generally so tired that if they sit down they are asleep in a minute.

1034. Mr. Turnbull, Huntingtower, Perth.—I bleach linen cloth, diaper, and damask and diaper table-linen, and employ about 150 people.

1035. In our beetling process I have 15 females and 15 men. The hours of work when busy, are thus arranged: they begin at 6, and from 12 o'clock (after an hour for breakfast) they can go on for three days with three quarters of an hour's work every three hours.

1036. But the general hours of work are from 6 to 9, or to half past 10 at night, with those intervals of three hours after every three quarters of an hour. They then go home at half past 10 or 11, and come again at 6 a.m. The night set that begin at 2 a.m. are a man and a woman (husband and wife, or brother and sister, if we can manage it)

These will go on from 6 all night after three days' work once every four nights; but when the new works are finished it will be once in 8 days. It takes them about three quarters of an hour after 2 o'clock to arrange the beams, and they can then rest till 6 o'clock. We cannot always have brother and sister or husband and wife at this work.

1037. In the drying and blueing department we have 20 females. Their regular hours of work are from 6 to 6, but when we are busy (as we were nearly all last year) they sometimes work from 4 a.m. to 8 p.m. with two hours for meals.

1038. The "lappers" (or makers up), seven females, average from 6 a.m. to 8 p.m., but they have half an hour for their tea.

1039. We have half a dozen young girls to mark the goods, but they do not work overhours.

1040. We have six boys, who also occasionally work from 6 to 8.

1041. We have no hot stoves, and the work is very healthy.

1042. Although I might be put to considerable inconvenience in these works by night-work being stopped, I would willingly submit to it, and put on men to work instead, in order to put an end to the immorality that must occur in the country by the present arrangements. The chief effect would be to reduce the wages of the women. There may be some difficulty in conforming to the factory hours, but I believe it will all be got over.

1043. Thos. Stewart.—I am employed as a beetler. Since Mr. Turnbull granted us a half holiday on Saturday, so that we stop at 5, I do not complain; and he also altered the hours at night from stopping at 11 to stopping at 10, and we go on at 2 a.m. on Monday in place of going on at 1. The men held meetings to get the short time Bill last summer.

1044. Mr. Robinson.—I am the manager of Mr. Turnbull's works. I do not see at this moment how we should get over the difficulty if night-work was stopped. It would require some consideration, but probably we should find a way after a time of getting over it.

1045. [Mr. Turnbull is making large additions to his buildings and machinery, for the purpose of rendering overtime less necessary.]

1046. Mr. Spottiswode, Linen Bleach-Works, Stormontfield, Perth.—We employ about 50 people, of whom about one half are females. No boys under 18.

1047. Our regular hours of work are in winter from 7 to 6, and in summer from 6 to 8, Saturdays included, and two hours a day for meals, and half an hour for tea if they work overtime. Occasionally we work overtime, and they are paid half a day's wages if they work till 9, and sometimes they work as late as 12.

1048. The beetlers who work during the night are in sets of two men and four women.

1049. It often happens in summer that we go on till 8 or 9 o'clock.

1050. The linen is "grass bleached." It remains on the field four or five days together. It is then "booked," and has wood ashes applied to it four or five times, and is put out again after every "booking." This process goes on for several days. After other processes it is dried in the air-drying houses. We do not use hot stoves.

1051. The labour is not excessive for the females; they have frequent opportunities of resting during the day.

1052. In order to get through our work in the factory hours, we should have to employ more hands, probably not many more, as we might substitute lads and men for a few of the females.

1053. The beetlers go on all night whenever we have work for them. At present most of the set stop at 10; a few of the rest go on till 12.

1054. Mr. Scott, manager (Mr. Caird and Co., Cromwell Park, Perth).—We bleach linen yarn, and employ about 40 people, of whom 12 are females and 2 boys.

1055. Our regular hours of work are from 6 to 6, with two hours for meals, and on Saturday from half past 5 to 4 p.m.

1056. The nature of our work is such that whatever quantity is begun in the morning, it must go through its full round in the course of the day.

1057. We seldom work any overtime; when we do it is to oblige a customer, who wants a lot of yarn finished by a certain day. Or if anything goes wrong in the course of the day, and we are hindered a little, we must go on with the work to finish it before we stop; otherwise the yarn would spoil in many of the processes. They are paid for extra time. The bell rings morning and evening at 6, and at the meal hours. The work is very healthy, and the females and boys do not work in the stoves.

1058. The females are chiefly employed in the boiling-house, arranging the work for the men, and taking it away from the squeezers, and laying it upon racks and waggons, and also in laying it out on the field.

1059. Our being obliged to work overtime to oblige a customer, is exceedingly rare. It does not happen once in a month, just for half an hour or an hour.

1060. If a break happens in the machinery, we have to stay on till the day's work is finished.

1061. Our boilers are calculated to hold 900 lbs. of yarn. As the yarn differs in fineness the finer yarn will run many more hanks to the 900 lbs., and require more handwork, and consequently more time. This causes us more extra hours than anything else, but seldom beyond half an hour or an hour over 6 o'clock.

1062. It is necessary to fill the boiler, as it will not do its work unless it is full. If the stuff moves about in the boiler, which it would do if it was not full, it would lose the benefit of the process.

1063. We do not count half hours; we always pay a full hour for any extra time.

1064. As the Bill does not propose to interfere with men and lads, we could get over it, though by paying a little more wages, by sending away the females at 6, and finishing up with lads and men.

1065. We should be better pleased to be allowed the hours from 6 a.m. to 7 p.m., with two hours for meals; and the hours on Saturdays, as at present, from half past 5 am. to 4 p.m. The workers curtail their meal hours on Saturdays voluntarily to half an hour each, in order to be sure of finishing up at 4 o'clock.

1066. We must work the same number of hours on Saturday as on any other day. Although it is nominally only 9½ working hours on Saturday, they get through the 10 hours' work in 9½ by making extra exertion.

1067. William Marshall, Esq. (Messrs. Marshall, Sandiman, and Co., Luncarty, Perth).—We bleach linen cloth exclusively, and employ about 40 men, 40 females, and two or three boys.

1068. Our regular hours of work are from 6 to 6, with two hours for meals; in winter from 7 to 6, with one hour for meals.

1069. The beetling process employs a portion of our hands during the night. From 9 p.m. to about 10, we have twelve females preparing the work for the night. They then go home, and return at 6 a.m.; sometimes a little sooner, by their own arrangements; they go home at 6 until 9. There are no boys with the night set of men.

1070. The work for all in the beetling process from 6 a.m. to 9 a.m. is constant. At 9 they go to breakfast till 10. From 10 to 2 p.m. they have not more than half their time employed, because they are only attending on the machinery, sitting down as they please. They go to dinner at 2 and return at 3; work half an hour, then attend on the machinery as before till half past 5. From that time till 6 they are putting cloth on the beams. At 6, or a little after, they go home. It is, therefore, very easy work for all.

1071. In the bleaching process, when we are busy, from six to twelve females begin work at 2 o'clock a.m. They have to take cloth out of the boilers. Some will do this in one hour, others in two, others in three. Those who get through in good time go home; the rest remain in the shed till 6 o'clock. They then commence their day's work from 6 to 6. It is a kind of piece-work; so that some get through their day's work quicker than others, and may be able to go home at 5 o'clock.

1072. Six or seven females are employed in the drying-house. They also begin at 2 a.m. and get home between 4 and 5 a.m., returning again at 6 to their work, and leaving off at 6 or a little after.

1073. The remaining females in our employ (three in the "lapping" or "making up" room) work from 6 to 6, with two hours for meals, and on Saturdays from 6 to 3. If they go on beyond 6, it is only until 7, and by their own arrangements. They never go away before 7 when we are in full work, which is pretty generally, except of late when business has been dull. They begin at 7 in winter, and have only half an hour for each meal. It is not laborious work.

1074. We bleach linen cloth, both plain and table linen of the best descriptions. Some kinds will take a month only to bleach, others require six weeks or two months. Most of the linen bleach-works in the neighbourhood of Perth are dependent upon water-power, and liable to long and continued interruptions during the winter. This year we have been interrupted from the beginning of January to the end of February, in consequence of the frost. It would be of no service to us to be allowed to make up this time at the rate of an hour a day as in the factories, or even at the rate of three hours a day, unless we added to our machinery. The bleaching difficulty we might get over, but the principal difficulty would be in reference to the beetling, because beetling is a process requiring skill, and we could not have men at hand for extra work. Having water-power only, we are obliged to go on night and day.

1075. Hector Sandiman, Esq., Tulloch Bleach-Works, Perth.—We bleach linen and cotton cloth, and employ from 60 to 70 persons, of whom about 20 are females, and 4 boys above 12. Our regular hours of work are from 6 to 6, Saturdays included, with two hours for meals in summer, and from 7 to 6 in winter (i.e., for three months), with an interval of half an hour each for two meals. Frequently we work overtime, sometimes amounting only to a few hours per month, sometimes an aggregate of four or five days.

1076. The beetlers go on night and day, though they contrive to have a long interval of rest during the night. Our beetlers are seven men and seven women, all married men, but not working with their wives. It is easy work, and they earn high wages compared with the rest.

1077. Occasionally the boys work overtime up to about 9 o'clock, only in summer.

1078. I should deprecate any legislative interference as far as works like mine are concerned, and I am of opinion that it will injure the trade.

1079. During the night-work the parents of the girls or boys are generally working near them, though not in the same place, not far separated at any time, and when they go home they go in bands together.

1080. The young ones are encouraged to attend an evening school belonging to the works and neighbourhood. I provide the school-room.

1081. If the hours were to be limited from 6 to 6, we should occasionally be put to inconvenience arising from the cloth not having been carried off the field before 6 o'clock by the ordinary hands. We should be under the necessity of bringing hands from other departments, and putting the whole body upon the field for that purpose. It can only arise in summer, and if we are very busy.

1082. There is no overwork on Saturdays. We always stop at or before 6, often at 4 or 5.

1083. Dr. BOASE, M.D., resident partner and manager (Messrs. Turnbull & Co., Claverhouse Bleach-works, Dundee).—We bleach linen cloth and linen yarn, and employ when we are busiest about 150 people in the bleachfield. We have voluntarily adopted the hours from 6 to 6 for five days in the week with nominally two hours for meals, but the work-people gave up a quarter of an hour, and we the same amount, in order that they may stop at 2 o'clock on Saturdays once a fortnight, the alternate Saturday they go on till 6. In winter we begin at half past 6 and work till half past 6, but the principle of 60 working hours per week is preserved.

1084. We avoid as much as possible any overhours; it very seldom happens, and never with any but men.

1085. We may have about 40 women and 20 boys.

1086. The women are employed principally in the bleaching houses and upon the field; on the latter they are all girls from about 12 to 14.

1087. The boys are employed in the same manner.

1088. In our stoves we have neither women nor boys, they are all men.

1089. When the beetling machines are busy we have two men and four women; they work at night extra hours, but we always place relatives together as much as possible. Sometimes when a sudden order comes we have to put these machines at work all night, and that for some months together. If women were forbidden to work at night, we should substitute men.

1090. We do not like extra time, as we find that if the people work longer than the proper hours one day they are incapacited for work the next day if the extra time continues. We used to work extra time for some weeks together, but discontinued it for these three years past, as we found it unprofitable.

1091. There is, however, this to be considered with regard to the ordinary linen bleaching process in Scotland, which is out-door work upon the field. It may happen at all times of the year that we may be liable to sudden emergencies from the state of the weather that may compel work to be done instantly for the preservation of property. This may sometimes occur half a dozen times in the year, but it might not occur at all for a whole year. The instances are of this kind: We may have (say) 10,000*l.* of cloth and yarn upon the grass. A snow-storm may be commencing towards the end of a day. In such a case we turn out all hands from every department of the works to gather up and bring in, or put into piles, to make safe, everything that is exposed. Another contingency is, that after the goods have been long frozen a thaw may set in. If the goods are not all moved immediately, the frost may recommence and they may be all frozen again, and detained still longer upon the grass. Again, in summer, it is necessary to be always on our guard against mildew. An incipient mildew may be detected towards the end of the day. It may be partial, but as much as is threatened must be taken up immediately. All our women, girls, and boys would be required for that purpose, and it may take them two or three hours after time. But during the seven years I have been superintending here I have only known two instances of this. Nevertheless if the yarns so threatened had not been immediately gathered up, we should have incurred a loss of several hundred pounds. In these various contingencies a very considerable loss might occur.

1092. These circumstances considered, we ought not to be liable to punishment if we transgress the hours that may be fixed by law. If, on being summoned for exceeding the hours limited by law, we can show such causes as the above for departure from those hours on an emergency, the excuse ought to be valid. In other words, the proposed Act ought to give us liberty to exceed the stipulated hours in such cases of necessity, as such emergencies occur so seldom.

1093. This question was considered by the trade when we heard that the Bill of last year was before the house, and it was obvious to us all that it would be a hardship to be placed in such circumstances as that we should be compelled to transgress the law, our business depending on the state of the weather which is not under our control, as is also the case with farmers, mariners, &c., who are liable to similar contingencies.

1094. What I have stated applies both to the linen, and the yarn bleaching; we do both in large quantities.

1095. The three largest bleach-fields in this part of the country are our own, Mr. Dimmie's of Panmure bleach-field, and Mr. Norery's of Douglasfield.

1096. Messrs. CARGILL & Co., Dundee Bleachfield.—We bleach nothing but yarn. We employ from70 to 80 people. Our hours of work are from 6 to 6 in summer, with two hours for meals. In winter from half past 6 a.m. to 6 p.m. with 45 minutes each meal-time. On pay Saturdays we stop at 2; on other Saturdays at the usual hours. We oblige eve y one to come regularly at the appointed hour, under a fine for being five minutes late.

1097. We employ about twenty females and ten boys.

1198. I think, for the same reasons as those stated by Dr. Boase, that we should be permitted to use overhours the labour of our females and boys, on the emergencies which he has detailed. My opinion is, that the emergencies arising from weather occur rather more frequently than Dr. Boase has mentioned. With us it may have occurred a dozen times annually.

1099. Our females work principally in assisting in putting up the yarn in bundles, in spreading the goods on the grass, and working in the bleaching-house. No females or boys with us are employed in hot stoves at all.

1100. With regard to making up time lost by flood or by scarcity of water, it ought to be allowed to be made up immediately, as the goods, being in a perishable state, would otherwise be spoiled. We require females and boys for that. We may not have had occasion to do this ten different times in the course of last year, at the rate of perhaps four hours a day.

1101. We could have a book lying in the counting-house, in which we might be require to enter the reason before commencing the extra work, under a penalty for a mis-statement, if such a thing may be considered possible.

1102. We do not want to work overtime; on the contrary it is a disadvantage to us, and speaking generally a loss.

1103. I consider the plan which we go upon, of giving a good rate of wages, and getting full work done within the ten hours, far better than that adopted in some places, of paying a low rate, and allowing people to work long hours. I know this from my experience both as manager and owner of bleach-works.

1104. Mr. ANDREW LAIRD (Messrs. Norrey & Sons, Douglasfield Linen and Linen Yarn Bleach-works, Dundee).—We employ between 80 and 90 people altogether. We employ about eight females, and eight boys. Our usual hours of work are from 6 to 6, with an hour and a half for meals, and we stop at 2 on Saturdays.

1105. If any Act should be passed to make these hours compulsory, we wish to have a latitude allowed to employ the females and boys overhours, on an emergency arising from weather.

1106. We should like to have it also at other times, when the goods are in a state where they might be injured by remaining in the other processes, not on the grass. But if we could not employ the females and boys for that, we must put the goods in a state of safety by the men.

1107. We should require liberty to make up for time lost by want of water. Sometimes we are employed three or four extra hours in the evening for want of water in the morning.

1108. We have beetling engines; when we are busy two females go on all night, with sometimes one man, sometimes two. They begin to work at 6 a.m. and have intervals of rest during the whole 24 hours of perhaps two hours at a time. This may happen sometimes for a week together, sometimes longer. Then for some weeks they will only work during the day.

1109. We have no females or boys in the stoves, only men. The temperature is about 90.°

1110. Mr. FERGUS MCINTIRE (Mr. John McIntyre's Linen Yarn Bleach-works, Balunie, Dundee).—We employ from 80 to 100 people, according to the state of trade, of whom about 16 to 20 are females, and six to eight boys. Our usual working hours are from 6 to 6 winter and summer, with two hours for meals. On the pay Saturday they leave off at 2; that is, once in four weeks.

1111. On emergencies arising from the weather, we should require to have power to go on with the females and boys for some overtime. It would be seldom later than (say) 8 o'clock.

1112. This may happen about a dozen times in the year.

1113. As regards overtime in the processes generally, if a lot of yarn should be going through any process and not in a safe state to leave it in exactly at 6 o'clock, we should like to be allowed to keep on the females and boys for (say) half an hour later, and we might be disposed, if we were not allowed to do so, to employ fewer females and boys, or perhaps none; but as there is to be no interference with adult male labour, we should have to finish up a lot in that state by our men. Our object in keeping boys and girls at all is that it is a nursery for rearing hands.

1114. Having heard Dr. Boase's and Mr. Cargill's statements read, on the subject of overtime, I concur with them.

1115. Mr. DIMMIE, Panmure Bleachfield, Dundee.—We bleach yarn only. We employ about 180 people, of whom 40 are females, and 40 boys.

1116. Our regular hours of work are from 6 to 6, with an hour for breakfast and three quarters of an hour for dinner, on five days of the week, and on one Saturday we stop at 5, and the other at 2; so that we make 60 hours a week. We adopted these hours a year ago; previously we worked 66 hours per week. We very rarely have any overtime. It happens occasionally in making up the bundles of yarn, when we are pushed to execute an order. We have in that room 16 females, but the labour is very light.

1117. These hours for meals differ from those that are usual at bleach-works. We adopted them in consequence of the distance that some of our workmen live from our works. We should be sorry to be obliged to depart from them and conform strictly to the factory hours. If the hours were to be entered in a book, to be kept in the counting-house and open to an inspector, we might make an entry showing if at any time we varied them, and thus satisfy him that we did not work more than 60 hours per week.

1118. We have no females or boys in the stoves. We have no cloth beetling engine.

1119. Our overtime is occasioned by a sudden order from the merchants. If an Act should pass limiting the hours for females and boys to 60 hours per week, we should be obliged to employ men from other departments of the overtime work.

1120. Having heard Dr. Boase's statement read, I concur in it; but I should wish to add that in very wet and in very windy weather we cannot put down our goods upon the field. Therefore, in addition to the contingencies mentioned by Dr. Boase, I should say that "hindrance by weather generally" ought to be allowed us as a valid excuse for employing our females and boys overhours on the day following.

1121. This latitude could never be abused, because it is necessary to carry on all these operations by day; and it is perfectly healthy work, being in the open field. We provide thick cloaks or great coats for our females and boys, to guard them against wet or cold. We have done so for many years. An entry to be made in a book to be kept at the office might easily satisfy an inspector that we had not worked over-hours without one of the reasons above adverted to.

1122. Mr. WM. DOWNIE (Messrs. Strachan, Kimond, and Co., Calenderers and Finishers, Dundee).—We calender and finish both linen and cotton goods. We employ no females, and only one boy.

1123. There are several similar establishments in Dundee, in none of which females and boys are employed.

1124. Our regular hours are from 6 to half-past 6, with two hours for meals.

1125. Messrs. WEBSTER, SALMON, and Co, Ward Mill Bleach-field, Arbroath.—We bleach linen yarn only, and employ from 49 to 70 people, according to the state of trade. At present we have 15 females and only 2 boys. Sometimes we have from 20 to 30 females and about 4 boys.

1126. Our regular working hours are from 6 to 6, with two hours for meals, and the same on Saturdays, unless they choose to begin at 5 in the summer months, in order to stop at 4, with half an hour only for each meal.

1127. About a year ago our hours used to be from 6 to 7, but we reduced them at the request of our people.

1128. My opinion is, that from 6 to 6 is quite long enough. I have had 18 years' experience in this business, and I have come long since to the conclusion that extra hours are a dead loss to the employer.

1129. We are nevertheless compelled occasionally to employ our people overhours, partly to oblige customers, partly in consequence of the weather.

1130. Sometimes it happens that unless we are able to take advantage of a particular kind of evening to put out or to bring in our yarns, we might be seriously hindered or injured. The yarn might be left out in a snow storm, and might be ruined. We must therefore under any circumstances have full power to employ all our people after hours on an emergency arising from weather.

1131. Doubtless it would be often very inconvenient to us not to be able to employ females and boys overhours to oblige a customer. But if an Act was passed, we should be driven in such cases to employ men only. This would at the same time not suit us, and it is our opinion that no legislative interference is wanted for yarn bleach-works. We have no stoves in which women and boys are employed when they are heated or at night, and the overtime comes very seldom. The females and boys, and all our work-people, are exceedingly healthy.

1132. Were we obliged to abandon overhours in all other cases except those arising from emergencies of weather, we should have no other alternative than that of making some addition to our means of getting through extra work in a shorter time. We should not think it desirable to dismiss the females altogether, and substitute men. A woman's wages are 6*s.* 6*d.* per week, and a man's from 12*s.* to 14*s.* Our hands are quite contented with the hours as they are.

1133. Mr. DUNCAN, Jun. (David Duncan & Co., Walk Mills Linen Yarn Bleach-works, Arbroath).—We employ about 30 to 40 people altogether, of whom eight are females, and about 10 boys under 18.

1134. Our usual hours are from 6 to 6, Saturdays, from 6 to 5.

1135. We have occasion sometimes to exceed these hours, principally to oblige customers.

1136. The work is so unobjectionable for females and boys, and the overtime so seldom, that we do not see the necessity for any legislative interference in our case. We do not employ either females or boys in the stoves at night. The overtime seldom exceeds a couple of hours, and that not often for many days together.

1137. I think that all that is required in respect to the yarn bleach-works is, that they should be restricted from employing females or boys later than 8 or 9 o'clock. The females we employ are from 12 years old upwards, but the young ones are never employed at night. This would at all events be a step in the right direction, so far as preventing excessive hours is concerned.

1138. Extra hours are paid in the same proportion as their wages. A woman earns 1*s.* a day; one extra hour is therefore a fraction above a penny. Two extra hours would be (say) 2½*d.*, as we give them the fraction in their favour. A man earns from 11*s.* to 14*s.* per week, from 1*s.* 10*d.* to 2*s.* 4*d.* a day. One extra hour would be for the former 2¼*d.*, for the latter 3*d.* per hour. The difference would be 1½*d.* per hour on an average. If we were to dismiss our eight females and employ eight men for one extra hour, it would amount to 2*s.*

1139. It is more the inconvenience of being obliged to send off all our females and boys at a certain hour that I look to, than the increased cost.

1140. Mr. ALEXANDER IRELAND, manager (Messrs. Aberdeen, Gordon, & Co., Logie Bleach-works, Montrose).—We bleach linen yarn only, and employ about 36 men, 10 boys, and 16 females. Our regular hours of work are from 6 to 6, stopping on Saturdays at 2, but they make up those two hours by shortening their meal hours, or making up a few minutes at night and morning. We make it our study as far as possible to keep to the 59 hours per week.

1141. The females are all employed in the field. The boys are employed out and in occasionally.

1142. We never make overtime except when obliged by the state of the goods at the moment, or by weather.

1143. The yarn is boiled in large boilers, which must be kept full. We never can tell to a few minutes when the yarn will be ready to take out. It depends upon the quality of the yarn. We are not, for this reason, able always to stop at the exact hour for meals; it is seldom more than ten minutes forward or backward; and so also in the evening, we may be ten minutes before 6 or ten minutes after. To stop always punctually at the hour would be impossible. We have no females at this work, but the boys are engaged at it with the men, and could not be dispensed with.

1144. Neither females and boys are ever employed in the hot stove. Very few even of our men are in the stoves, as we have the yarn in the open air.

1145. We are occasionally hindered by weather, by frost and snow, or rain, or wind, and may therefore be obliged to keep a dozen or two of our men overhours in the winter season, but not in the summer; and the females and boys are not required on those occasions. The men alone put out or take in the yarn.

1146. If any Act is to be applied to linen yarn bleach-works, regulating the hours, it would be essential to allow us this latitude of going on a little after the regular hours, to prevent injury to the goods. The danger is, that if the yarn is left too long in the alkali, or in the chloride of lime, or in the sulphuric acid (the three processes it goes through in succession), it would spoil; and it is necessary to watch so as to know the exact moment when to take it out. If we were to be allowed a lattude of half an hour for this, it would be quite sufficient.

1147. In the same manner, if a storm of wind were to come on, or in case of flood, we might be called upon even in the night by the watchmen to remove the whole of the goods that might be in danger. If it occurred in the afternoon or at night, we should have put all our strength, as many as we could muster (and even more than are regularly employed), on the work, to gather it together and put it out of danger. It may happen in large establishments that, just before 6 in the evening in summer, it might be necessary to use the whole strength in gathering up goods for an hour or more overtime.

1148. In the making-up room we have four females, who help in putting the yarn into bundles or finishing them ready to send for shipment. I have known them kept till 10 o'clock at night for many weeks together. That occurs when trade is brisk. Sometimes I have seen it for five weeks together. Then there might be an interval of a month, or a fortnight, or a week, perhaps even only a day, and we might go on again in the same way for eight or ten days or more. They are strong women, and very healthy. If this was to be stopped by an Act, we should employ men for it. The general part of the bleach-works, I believe, employ men for that. Those females would come at 6 a.m. and stay till 10, and I have seen them stop till 11. They are not young girls. We have no boys at that work.

1149. In the stove the yarn is with us put in in the morning and taken out at night. Sometimes it remains 24 hours, depending upon the kind of yarn, the coarser remaining longest. By our system we have not occasion to turn it while in the stoves; we take it out for that purpose. It is turned to make it dry evenly.

1150. We should also have power to work overtime if we lost time by want of water or by flood, or by breakages of machinery. We are oftenest stopped by overmuch water.

1151. Mr. PETRIE, manager (Messrs. Richards and Co., Craigo Bleach-works, Montrose). —We bleach and finish linen and linen yarn, and employ about 100 people, of whom about 20 are females and about 40 boys.

1152. About a year ago we established the hours of from 6 to 6 as our regular hours, except on Saturdays, when in summer they begin at 4 and leave off at 2. The meal hours are two a day.

1153. We have very seldom overtime for the females and boys, with the following exceptions: We have a night set of two females at the beetling machine. They begin at 6 p.m., and go on till 6 a.m., and continue at this without change. No men work with them, but there are night-sets of men in the adjoining buildings.

1154. We have occasionally night-work for boys in the yarn operations; two or three may be in the night-set.

1155. The linen-beetling machines are worked entirely by men. They generally go on at night only, for the convenience of water. They have no boys to assist them, or the stove-men who work all the winter at night. The boiler-men work winter and summer at night, but have no boys.

1156. In the stove for day work we have eight females when we are in full work. They carry in the yarns and carry them out to shake. The temperature in the stoves is about 100° to 130°. They are not in that heat longer at a time than a minute or so; they then come out to a cool place, and will be there a few minutes before they go back into the stove. Their hours are regular from 6 to 6, and they do not work overtime. Before our present regulation their hours used to be from 6 to 7, which had been the regular hours for 30 years.

1157. We have four females in the "making-up" rooms, but no overtime.

1158. If our females and boys are to be restricted by Act of Parliament to our regular hours, we must have liberty to keep them overtime on occasions when our yarn or cloth may be in danger if it is to be left upon the field. This might happen from wind, or frost, or snow.

1159. Also, we cannot always say to a few minutes when the linen yarn operations can be concluded. If they were left between the operations, that is, if they were not taken from one immediately to the other, the ingredients would become active again and the yarn would be injured. We must have a latitude, therefore, which would allow us to go on with any such operation after the stated hours. I think a latitude of half an hour would enable us to put things safe in ordinary cases. The little that might remain might be done by the men. We often leave off 10 minutes before 6 when an operation is concluded, and we often go on 10 minutes after 6, not often longer. We must, of course, have power to go on longer to make up for time lost by want of water, or by overmuch water, or by breakage of machinery.

1160. Mr. COUTS, manager (Messrs. Richards & Co., Rubislaw Bleach-works, Aberdeen). —We bleach linen and linen yarn. We employ about 200 people altogether when busy, of whom about 40 are women, 5 young girls, and 26 boys. They are not paid extra time till after 7 o'clock, but we seldom go on so late as that. On Saturdays we stop at 3, beginning at 6 a.m.

1161. We prepare the yarn chiefly outside the stove, and the general thing is that women have to empty and fill the stove. Sometimes they may be in the stove for half an hour or an hour when we require it for a particular process, but then the doors are thrown open, and the heating power is stopped. The heat of the stove when they go in may be about 100°, but it cools down rapidly. As we use the new plan of heating by hot air we can cool down the stove with great ease, we have a perfect command over it; but the old plan of heating by hot brick flues, which is still the most prevalent, does not admit of this. Eight or fewer of our females are employed in the stove, and that only occasionally, and chiefly in winter. They are very little wanted in the stove.

1162. We have no night-work for females or boys.

1163. At the beetling engines of cloth or yarn we have only one female and two boys. They sometimes make an extra hour, but very seldom.

1164. We allow two hours a day for meals.

1165. Some of our females are employed in preparing the yarn for bundling, but they do not make longer hours than the rest.

1166. If trade were to become very brisk again, we should not make overtime but augment the hands. We should go on to 7 before paying overtime.

1167. We do not always stop quite punctually at a particular hour; sometimes we have to go half an hour beyond 6, sometimes we stop at half past 5. This is occasioned by the state of the yarn or cloth, some qualities may require a little more labour or a little more time than others. A batch of fine yarn may take us some minutes longer than a similar bulk of coarser. We ought, therefore, to have the power of going on with our females and boys a little after hours to meet those cases, provided always we do not exceed 60 hours a week.

1168. On Saturdays we stop at 3, but they take only half an hour to breakfast, and do not stop for dinner. We never begin earlier than 6.

1169. This is the only bleachfield in this part of the country. There were others, but they have been discontinued.

1170. Mr. JAMES GAGE.—I superintend the linen bleaching department of these works.

1171. Our hours are about the same as the yarn department, generally not so long. We begin at 6 and leave off sometimes at 4, 5, or 6. This has been the case for some years back. We do not pay for overhours unless they work past 7. If trade were to become very brisk, we should work up to 7, and beyond it. There are 7 females and 2 boys in my department at present. The boys are increased sometimes up to 6.

1172. We do not employ females at the beetling at night. A year ago I had a double set of 4 men and 4 boys, from 6 a.m. to 6 p.m. and from 6 p.m. to 6 a.m. This was in consequence of a brisk demand at the time, and might occur again.

1173. Mr. JOHN LAMB (Messrs. Lamb, Scott, and Co., Inch Bleaching Company, Brechin).—We bleach linen yarn exclusively; and employ about 85 people altogether, of whom 16 are females, and 10 boys.

1174. Although we consider our regular hours to be from 6 to 6, stopping at 5 on Saturdays, with two hours for meals except on that day, we usually go on till about 7 or later; but it happens that for the last seven weeks we have had only three hours of overtime per week.

1175. We have no females or boys employed in the stove, nor any at beetling.

1176. Supposing an Act to pass limiting the hours for females and boys to between 6 and 6, if we had the liberty of working an hour overtime or undertime, it would suit us. I should not like to be confined to 60 hours per week, although in all probability it would run from 60 to 65 hours. However, at times of brisk demand we should go on habitually till 7.

1177. It is a question, as far as we are concerned, whether or not we should take on a few more hands, to do the work within the 60 hours; but I question whether the hands would like that.

1178. As we have neither females nor boys in hot stoves or at beetling, and all the work is comparatively light for them, we do not think that an hour or two a week extra would be in the least objectionable.

1179. One or two of our boys are about 13 years old, a few between that and 15, about three fourths of them above 15.

1180. We have only about one or two females between 13 and 15, the rest are pretty equally divided between 15 and 30.

1181. Mr. IRELAND, partner and manager (East Mill Company, Brechin).—We employ 80 altogether, of whom 19 are females, and 13 boys.

1182. Our regular hours are 10 per day, but we sometimes work overtime; chiefly, however, with the men. All the hands work occasionally overhours more or less, especially during the winter.

1183. The four females in the "bundling" room often go on till 10 on those occasions, but it would be no difficulty to us to prevent that with the females.

1184. The boys when they work overhours are employed in the washing and bleaching departments generally.

1185. It would frequently be very inconvenient to us if our females and boys were obliged to stop at a particular hour. We may wish to continue them longer when the state of trade requires it. In addition also to the ordinary emergencies of weather, which may cause us to require all our hands to a later hour than 6, we may be impeded for part of a day by the water being in a disturbed state from rain at a distance, and might find the water suitable to our purposes later in the afternoon, when by working on we might complete the day's work.

1186. Mr. ROBERT PATTEN (manager in Mr. Pearson's Linen Yarn Bleach-Works, Balburnie, Mark Inch, Fifeshire).—We employ 8 men and about 30 females, and no boys at present. Our hours of work are from 6 to 6 with two hours for meals, with the same on Saturdays; and we never make overtime.

1187. These are the general hours in Fifeshire, with the exception that some works have a different arrangement for Saturday.

1188. Mr. WM. DAYES (manager at Mr. Robert Tullaes and Co., Linen Yarn Bleach-Works, Rothes, Mark Inch, Fifeshire.—We employ 10 men, 27 females, and 2 boys. Our hours are from 6 to 6 with 2 hours for meals; the same on Saturdays except on pay day, when they take half an hour less for meals.

We have not worked overtime since I came here five years ago.

1189. If anything happens as to weather that may oblige us to gather in the yarn, we ought to be allowed to keep the females and boys overtime for that purpose; and also in the steeping, we cannot always get through with it within 10 minutes or a quarter of an hour.

1190. These are the general hours in all Fifeshire. I have been a bleacher for 31 years, and the hours have always been the same. It is only yarn we bleach in Fifeshire. There is no cloth-field in Fife.

1191. The females are very little in the hot stoves,—just half an hour or an hour at a time shaking the yarn, half an hour out of every three hours. The temperature is from 85° to 90°.

1192. Mr. JOHN CAIRD (John Fergus Esq., M.P., Prinlaws Bleach-Works, Leslie, Fifeshire).—Mr. Fergus and Mr. Wilson, the manager, are absent. We bleach yarn only, and employ 27 men and 45 females; no boys.

1193. Our regular hours of work are from 6 to 6, with 2 hours for meals; on Saturdays we stop at 5. These, with the exception of the Saturday, have been our usual hours of work for the last 20 years. We very rarely make any overtime. It is not always possible to stop at the precise hour of 6, but it seldom varies more than 10 minutes or a quarter of an hour.

1194. In case of some sudden change of weather we require our females to work beyond 6 until the goods are got into a safe condition.

1195. We are sometimes also impeded for a part of the day by the dirtiness of the water in consequence of a sudden thaw or heavy rains, and on these occasions we might possibly wish to go on for an hour or so beyond the regular hours.

1196. We have such a command of hands, and also such extensive works and wachinery that we can get through any extra demand upon us in periods of brisk trade mithout exceeding the regular hours, and doing so would be very exceptional, and only in the drying, where we employ only four females, all the rest (14) in that department being men. On such occasions we could easily dispense with those females.

1197. I believe these are the hours that prevail in all the bleach-works in Fifeshire.

1198. Mr. LANDALE (Messrs. D. Landale and Co., Lochty, Kirkaldy).—We bleach linen and cotton yarn; chiefly linen. We employ about 16 men, 50 to 60 females, and 2 boys.

1199. Our regular hours are from 6 to 6 with 2 hours for meals, and on Saturdays we stop between 4 and 5. We have very rarely any overtime, except when we have a certain quantity of yarn that must be brought forward to its proper state for safety. This may take 10 minutes or a quarter of an hour, seldom half an hour. This may occur at our dinner hour as well as later in the day; but if the people stay on beyond the regular time for such purposes one day, they are repaid by stopping a little earlier the next.

1200. Again we may have a quantity of yarn exposed on the grass ready to take up. We may be apprehensive of a snow storm coming on and we call our workpeople and take it up as quick as we can, working as long as it is light, or possibly later. The power to do this with our females must be allowed us should any Bill pass.

1201. We have about 20 females in the stove under one man. The temperature is about 90° to 95°. They are seldom in it more than 10 minutes at a time. Their duty is just to take in and take out the yarn; they do not operate upon it within the stove, they come out to shake it in a cool air-drying loft. It may take them half an hour to fill and the same to empty the stove; they will then be about half an hour shaking what they have taken out. It is undesirable that the females should be longer at a time in such a heat, and we never allow them to shake the yarn in the stove, as is the case in several bleach-works.

EAST OF SCOTLAND.

1202.—LINEN CLOTH AND LINEN YARN BLEACH WORKS.

—	Description of Goods bleached.	Number of Persons employed.			Regular Hours of Work.	Time allowed for Meals.	Females and Boys employed at Night-work.	Temperature of Stoves where Females and Boys employed.
		Men.	Boys.	Females.				
					A.M. P.M.	HOURS.		DEG. FAHR.
Messrs. Patton & Brown, Pittcairn, Perth.	Cloth	40	5	14	2 to 8	2	10 females	—
Mr. Turnbull, Huntingtower, Perth.	Cloth	110	6	48	6 to 9, & 10½; at beetling 6 to 6; but when busy, 6 to 8, or 4 to 8.	2	35 females	—
Mr. Spottiswode, Stormontfield, Perth.	Cloth	55	—	50	6 to 6, occasionally overtime till 9, or 12.	2	Sets of 4 females.	—
Mr. Caird, Cromwell-park, Perth.	Yarn	26	2	12	6 to 6, seldom later.	2	—	—
Carried orward -		231	13	124				

—	Description of Goods bleached.	Number of Persons employed.			Regular Hours of Work.	Time allowed for Meals.	Females and Boys employed at Night-work.	Temperature of Stoves where Females and Boys employed.
		Men.	Boys.	Females.				
Brought forward - - -	- -	231	13	124	A.M. P.M.	HOURS.		DEG. FAHR.
Messrs. Marshall, Sandeman, & Co., Luncarty, Perth.	Clo t	40	3	40	6 to 6, often 6 to 7.	2	18 females	—
Mr. Hector Sandiman, Tulloch, Perth.	Linen and cotton cloth.	36	4	20	6 to 6, frequently overtime.	2	7 females	—
Messrs. Turnbull & Co., Claverhouse, Dundee ; Dr. Boase, M.D. resident partner & manager.	Cloth and yarn.	90	20	40	6 to 6, winter $6\frac{1}{2}$ to $6\frac{1}{2}$.	2	—	—
Messrs. Cargill & Co., Dundee	Yarn	50	10	20	6 to 6	2	—	—
Charles Norrey & Sons, Douglasfield, Dundee.	Linen and yarn	64	8	8	6 to 6	$1\frac{1}{2}$, stopping at 2 p.m. on Saturdays.	2 females	—
Mr. John McIntire, Balunie, Dundee ; Mr. Fergus McIntire, partner and manager.	Yarn	72	8	20	6 to 6	2	—	—
Mr. Dimmie, Panmure Bleachfield, Dundee.	Yarn	100	40	40	6 to 6, seldom later.	$1\frac{3}{4}$	—	—
Messrs. Webster, Salman, & Co., Wardmill Bleachfield, Arbroath.	Yarn	36	4	30	6 to 6, occasionally late.	2	—	—
David Duncan & Co., Arbroath.	Yarn	22	10	8	6 to 6, seldom later.	2	—	—
Messrs. Aberdeen, Gordon, & Co., Logie, Montrose.	Yarn	36	10	16	6 to 6	$1\frac{1}{2}$, stopping on Saturdays at 2.	4 females sometimes till 10 p.m.	—
Messrs. Richards & Co., Craigo, Montrose.	Cloth and yarn.	40	40	20	6 to 6	2	2 females occasionally ; also 4 boys.	Stove 90° to 100° 8 females.
Messrs. Richards & Co., Rubislaw, Aberdeen.	Cloth and yarn.	130	26	45	6 to 7, seldom so late.	2	4 boys had taken night set at beetling.	In the stoves 8 females occasionally ; temperature about 100.°
Messrs. Lamb, Scott, & Co., Brechin.	—	54	10	16	6 to 6, overtime when trade is good.	2	—	—
East, Mill, & Co., Brechin	—	47	13	19	6 to 6, overtime when trade is good.	2	—	—
Mr. Pearson's, Balburnie, Mark Inch, Fifeshire.	Lace-yarn.	8	—	20	6 to 6	2	—	—
Mr. Robert Tullaes & Co., Rothes, Mark Inch, Fifeshire.	Linen-yarn.	10	2	27	6 to 6	2	—	—
John Fergus, Esq., M.P., & Co., Prinlaws, Leslie, Fifeshire.	Linen-yarn.	27	—	45	6 to 6	2	—	In the stove 20 females.
Messrs. D. Landale & Co., Lochty, Kirkaldy, Fifeshire.	Linen-yarn and cotton yarn.	16	2	60	6 to 6	2	—	90° to 95°
Total - - - - - -	- -	1,109	2	618				

YORKSHIRE DYE-WORKS.

Wool, Woollen Cloth, Stuffs, Silk, Yarns, and Mixed Goods.

1203. Mr. Wilson Sutcliffe, Bradford (Messrs. Edward Ripley and Son, Bowling Dye Works).—We dye and finish stuff goods manufactured at Bradford and the neighbourhood, and employ about 400 hands, of whom about 100 are boys under 18, and about a dozen females.

1204. Our regular hours of work are from 7 a.m. to 6 p.m., winter and summer, with one hour for dinner; the people breakfast before they come. On the Saturday we commence at 6, and work till 1, when we close. This has been our practice for about two years. The hours previously were from 6 to 6, with two hours for meals.

1205. We work overhours when the demand requires it. We then begin at 5 or 6, and go on till 8 or 9 o'clock at night, sometimes a little longer. That may last for six or eight weeks together, sometimes a little more. This generally happens in the summer season.

1206. As regards the females and boys who mark the goods and sew the pieces together, we might have to put on a few more hands in a period of pressure, if their time was to be limited to 6 o'clock. The rest of the boys aid in the dyeing and washing processes.

1207. As there is to be no interference with adult male labour, any part of the dyeing process not completed at a stated time can be gone on with by the men.

1208. If boys are prevented going on beyond a stated hour, and we had a press of work, we should have probably to substitute men for it. We should have to take men from some other department, where they would not be required at the moment, and put them to the extra work. We cannot expect that this may not subject us to some inconvenience.

1209. [The dyeing of piece goods, or the manufactured article, is carried on in Yorkshire chiefly at Leeds, Bradford, Halifax, and only one large work at Wakefield.

1210. At Huddersfield the dyeing is chiefly in the skein or wool,—the unmanufactured article.]

1211. Mr. G. Armitage, Bradford.—We dye mixed worsted and cotton goods, and employ when busy about 350 people, of whom about 40 are boys from 12 to 18, and about eight females.

1212. Our usual hours are, when busy, are from 6 a.m. to 10 p.m., with two hours for meals.

1213. The busy time generally extends from April to August.

1214. In winter they do not average more than three full days per week.

1215. If we are placed under restriction as to the hours of work for females and boys, it would put us to much inconvenience at those busy times; and as we should have to substitute adults for those boys, it would add considerably to the cost of labour, Nevertheless, as all in the trade would be placed upon an equality, it would be better for those who, like myself, do not at present employ so large a proportion of young labour.

1216. Mr. Richard Watson, manager (Mr. Samuel Smith, Worsted and Cotton and Worsted Dye-Works, Bradford).—We employ when busy about 200 people, of whom about 50 are boys between 12 and 18. We do not employ any females.

1217. When trade is good our hours of work in July and August are from 7 a.m. to about 8 and 9 p.m., with two hours off for meals.

1218. For the last two years trade has been slack, and we have made but little overtime; and every year from the middle of January till the end of March there is not much doing.

1219. As adult male labour is not to be interfered with, we shall not care so much about the limitation of hours for boys.

1220. Four fifths of our boys are employed in the singeing, scouring, and washing; a few in the drying place. We could not substitute adult labour for the boys in those places; therefore if we are not allowed to employ them beyond 10 hours a day, the merchants would have to wait a little longer for their goods. To this we should not object, because we frequently have to wait overhours in slack times. The merchants would have to send their goods a little sooner or wait a little longer.

1221. Mr. Joseph Moxon Kirk, Halifax.—We are dyers of worsted stuff goods, and worsted mixed with cotton, and silks of all colours and all kinds, made for the Bradford market.

1222. We employ upwards of 200 people, of whom about 20 are boys, and about 10 females.

1223. The usual hours of work are from 6 to 6. Sometimes the merchants want goods at a short notice, and we have to work overtime, seldom later than 8 or 9 o'clock. The boys are principally employed in sewing the marks on the pieces of cloth, and in helping the men in the dyeing processes. The females sew the pieces together, preparatory to their being put into work.

1224. We should have no difficulty, if the hours for females and boys were restricted, in putting on a few more hands, which would enable them to keep up with the men, or get a quantity of work beforehand for the men to go on with.

1225. [Mr. THOS. THOMPSON.—This is one of the largest works of the kind in Yorkshire.]

1226. Messrs. OATS & INGHAM, Halifax.—We are woollen and cotton yarn dyers, and employ about 50 people, of whom only four are boys under 18. Our usual hours are from 6 to 6, with two hours for meals. We work overtime occasionally. It would not give us much trouble to dispense with these boys at half past 6. If necessary, we could arrange for that.

1227. Messrs. HOLMES, Halifax.—We are stuff and woollen dyers, and employ from 70 to 80 people, of whom only two are boys, and four females. Our hours are from 6 to 6. We dye heavy goods, and do not like employing boys, as the work goes on better without them. Messrs. Crossley are in the same line of business as ourselves.

1228. Mr. JONATHAN SMITH, Halifax.—We dye worsted and woollen, and emplo about 150 people, of whom about a dozen are boys, and two females. Our hours of work are from 6 to 6, with two hours for meals. If a limitation were to be placed on the hours for boys and females, we should have to employ men for any overtime that we might be called upon to make. It would put us to some inconvenience, but it would be more injurious, in my opinion, to the men, as it would compel us to alter our mode of employing them. We should have to discharge some boys, and take men on instead for the occasional "pushes."

1229. Mr. WATSON, Bradford.—We are "finishers" of the goods manufactured here We employ about 25 men and two boys, and one female. Any limitation of hours for boys would not affect us. The other establishments in the same branch of business are similar to ours.

1230. Mr. WAINWRIGHT, foreman (Mr. Joseph Houldsworth, Belleisle Dye-Works, Wakefield).—We dye stuffs and woollen cloth, and employ about [200] people, of whom about 18 are boys, and ten females.

1231. The usual hours of work are from 6 to 6; on Saturday we stop at 5, having 1½ hours for meals.

1232. When we are busy these boys and females go on till 8 o'clock, not often later. It is eight months since we made any overtime The overtime may be for a week or two at a time, and that very seldom. We never like to work the boys longer than we can help. Most of them are from 12 to 14, the rest 15 and 16.

1233. We could not put older lads to this work for the overtime; it is chiefly sewing the ends of the pieces together, before they go through the machinery.

1234. The females also sew the pieces together for the same purpose, and work the same hours as the boys on those occasions. One is about 14, the others 18 to 20 and upwards.

1235. Mr. T. HODGSON, traveller for Mr. Houldsworth.—The cause of the overtime is, that orders come to be executed by a certain day. If all the dyers were put on an equality, and none could work overtime, it would be more easy to accomplish. The merchants would know they must give longer time to execute an order. To some American markets there are ships sailing once a month. If merchants wanted goods by that day, they would have to provide accordingly.

1236. Mr. REFFITTS, Wool and Woollen Goods Dye-Works, Leeds.—We employ about 150 hands when busy, of whom 20 are boys under 18, and only about six females.

1237. Our regular hours are from 6 to 6, except when very busy we may work from 6 to 12.

1238. The females very seldom work later than 6, but two years ago, when trade was brisk, we went on for nearly a year as late as from 9 to 10 at night.

1239. The demand fluctuates very much, and for the last two years we have had very little overtime.

1240. Sometimes the boys are sent home when we go to a late hour, and we class men as well as we can; that is, we take men who have done at some other part, and put them to the boys' work; some that can be changed in that way.

1241. Men in the dye-works earn, in the regular hours (from 6 to 6, with two hours off for meals), some 16*s.*, some 18*s.* per week. Boys range from 6*s.* to 12*s.* under 18 years of age.

1242. Mr. JOHN BOTTRELL, Leeds.—We dye stuff goods, and employ, when busy, 300 to 400 hands, of whom only about 20 are boys, and half a dozen females.

1243. The demand fluctuates so much, that we are occasionally required to work overtime; but when that is over, we may not, for another period, have employment for the people for the whole day. It would be inconvenient to us to send off the boys precisely at 6 or half past 6, and the probability is, that, should the proposed Act pass, we should dispense with them altogether. As to the females, we should have to employ a few more of them.

1244. This is the largest work of the kind in Leeds.

1245. Mr. JOHN CALVERT & SONS, Leeds.—We dye stuff goods, and employ when busy about 150 hands, of whom, about 20 may be boys under 18, and no females on the works.

1246. Our usual hours of work are from 6 to 6, with one hour and a half for meals, and the same hours on Saturday. We very often work overhours when we are required to do so, by having to execute orders by a certain day; and on those occasions the boys may go up to 8 and 9 o'clock, and sometimes later.

1247. When our trade is very brisk, we sometimes require two sets of hands, boys included, one of which takes the night-work. These boys vary from 13 and 14 years of age, to 16 and 17.

1248. I do not well see at present how we could manage, if this is prevented, without doing away with the boys. We might after a time make some different arrangement, as we should prefer keeping the boys, in order to train them to the business.

1249. Mr. THOS. W. GEORGE & Co., Leeds.—We dye stuff (Bradford) goods exclusively, and employ about 140 hands, of whom about 23 are boys under eighteen, and five females.

1250. The work is so irregular, that it would be very inconvenient to us to be obliged to send off the boys at a stated hour; and as far as this branch of business is concerned at Leeds, I do not think there is any necessity for legislative interference. Frequently these boys work short time, and sometimes long hours, from 6 to half past 9, and occasionally later. In 1853 we were more than usually busy, and went on, sometimes for several weeks together, from 70 to 80 hours per week; and at other times in that year it came down to between 50 and 60.

1251. This is a very healthy occupation, and the overwork is not physically injurious to the boys, unless it should be very long continued.

1252. Mr. J. & W. CHADWICK, Leeds.—We dye wool and woollen cloths. We dye nearly the whole of the blue cloth for the army, and some of the red also.

1253. All dyers in our branch of business require daylight to produce colour. Therefore we do not work overhours, or only rarely, and to a small extent, and only employ two or three boys. The few females in our employ do their work at home.

1254. [The red cloth for the army is dyed at Gomersall, about 12 miles from this, by Messrs. Knowles.]

1255. [Mr PENDER, Wakefield, dyer of wool and worsted yarn, stated he employed only two or three boys, and no females, or only one.]

1256. Mr. HENRY HOLROYD, Leeds.—We dye stuffs (damasks and other kinds), and employ about 100 hands, of whom only about six are boys under 18, and two females.

1257. The six boys are employed at the calendering machine. We let this work, and the person who manages it has sometimes occasion to employ three of these boys up to 10 at night, and sometimes later. When much pressed (which is very rare), three will begin in the evening, and go on through the night. Two are under 13, and the other four from 14 to 15. When they get a little older they are put to a better job.

1258. If the hours were limited for boys it might put us to some inconvenience, when we wanted younger lads than we now have in the other departments, by way of training them up to the business.

1259. [The number of stuff dye-works in Yorkshire, great and small, does not amount to 30; and in that number some very small ones will be included. There are only six at Leeds. We had a meeting lately of the trade, at which sixteen firms were represented; it was considered that it was a decided majority of the whole trade.]

1260. Mr. SAMUEL ROUTLEDGE (Huddersfield).—I dye cotton warps and cotton yarn, worsted and woollen yarn, and silk.

1261. When we are busy I have employed 100 men. At present I have only from 40 to 50, of whom about 15 are boys. I do not employ females.

1262. Our usual hours are from 6 to 6. We very seldom now have any overtime. If the boys were to be sent off at 6, it would make very little difference to us. I have been engaged in this branch of business many years, and have always preferred to keep as much as possible to the regular hours of work.

1263. Mr. JOHN NICHOLSON, foreman (Mr. Layton's Cotton Yarn and Warp and Silk Dye Works, Huddersfield).—We employ about a dozen men, and only one boy, and no females.

1264. Mr. ISAAC ROBSON, Huddersfield.—I dye cotton and woollen yarn, and employ about 15 men, and five boys.

1265. The usual hours are from 6 to 6, with 1½ for meals.

1266. It may occasionally put us to considerable inconvenience to be obliged to send away these boys at a stated time; and to substitute men, would add to the expense of conducting the business. The work is light and perfectly healthy.

1267. Mr. JOHN SALKELD, Huddersfield.—We dye silk only. We employ no boys or females. The material is too delicate and costly to entrust boys with it. (See § 583.)

1268. This is the only silk dyeing establishment in Huddersfield, there is only one other in the neighbourhood,—Messrs. Brooks', of Meltham Mills, whose establishment is similar to our own.

1269. Mr. JOHN CROWTHER, manager (Mr. W. Shaw, Cotton Yarn Dyer and Bleacher, Huddersfield).—There are six men and four or five boys employed here. Our regular hours are from 6 to 6. When trade is good we make overtime; never all night, but sometimes up to 9 and 10 o'clock, for three or four months together.

1270. If the overwork is required, it ought to be done by men. It is quite long enough for boys to work, from 6 to 6, with two hours off for meals, although the work is light. In winter time, particularly, it is bad for the boys to be so long in these wet and damp places. The overtime comes in winter as well as in summer. The boys are also liable to be employed in the stove, where the yarn is hung to dry, for two or three hours at a time every day. The temperature is about 90°. The boys are taken on at seven or eight years of age. Those we have are nine, 10, 11, and 12.

1271. There are no other dyers or bleachers in Huddersfield than those you have seen.

1272. [Mr. JOHN BURGESS, at Brighouse, employs about 30 hands. His is the same business as this. There are in that neighbourhood two or three more very small ones; besides those, I am not aware that there are any more in this part of Yorkshire.]

1273. Mr. BROOKS, Wool Dyer, Huddersfield.—I employ only one boy and no females. I employ about 13 or 14 people.

1274. Mr. EASTWOOD, Dyer and Fuller, Huddersfield.—I dye wool, and employ no boys or females.

WEST OF ENGLAND.

1275. Mr. J. MERRITT (Mr. Joseph Partridge, Woollen and Cloth Dyer, Stroud).—We employ no females or boys. The work requires greater strength than either females or boys possess.

1276. The other dyers in this neighbourhood, not connected with factories, are Mr. Gyde, Mr. Farrer, Mr. Smith, and Mr. Gayner. These are all in the same line of business as ourselves.

1277. There are two dyers at Wootton-under-Edge, Wm. White and Co., and Mr. Strange. They dye the same kind of goods as ourselves, and I am quite sure they do not employ either boys or females.

1278. These are the only public dyers, i. e., dyers on commission, in Gloucestershire. [The rest dye their own goods, and are under the Factory Act.]

1279. There is no bleaching carried on in this county.

1280. Mr. C. WEBB SMITH (Messrs. Christopher Smith and Co., Stroud).—We dye wool and woollen cloth, and do not employ females or boys. This is the general practice of the trade in the West of England.

1281. Mr. GYDE, Stroud.—I dye wool and woollen cloth, and do not employ females or boys.

1282. Mr. WM. WEBBER, Trowbridge.—We dye wool only. We employ no females, only a boy or two, and their hours are only 10 a day. This is the general habit in the counties of Wilts, Somerset, and Gloucester.

1283. FREDERICK EYRE, foreman (Mr. Moore's Dye-Works, Trowbridge).—We do not employ females, and only one boy of about 15.

1284. Messrs. Timbrell Moore, at Bradford (Wilts), do not employ any boys or any females. Mr. Moore is my master's son.

1285. The only other dye-work at Trowbridge is Mr. Clark's, and he is like ourselves, and does not employ females or boys.

1286. Mr. PARISH, Frome.—I dye wool. It is very heavy work. I employ no boys, only about 20 men.

1287. The only other dye-works not connected with a factory in Frome is Mr. Bull's, and he employs only three men.

NOTTINGHAMSHIRE, &c.

Hosiery and Lace Trade.

1288. Mr. J. F. Bottom, Silk Lace Dresser (Finisher).—We employ about 70 females; their occupation is superintending the dressing (finishing) frames. Our usual hours are from 8 to 6. Occasionally, when an extra demand arises, we have to go on from one to three or four hours extra. This is the extreme. This will occur sometimes for a week together, in the spring particularly. We have no boys, We dye and scour also, but employ no boys or females at that.

1289. As a general rule, machinery is not employed in this branch of business. The lace is sent to the dressers from the manufacturer. It is a separate business entirely. I have only two "progressing" frames, which are turned by machinery, and there are none other in the town. They employ about 14 females.

1290. The case of the Nottingham lace makers and dressers was considered at the inquiry relating to the Factories, and it was not deemed necessary to include them.

1291. The work for these females is very light, and the temperature only from 70° to 80°. Our dressing-room covers an acre and a half of ground. It is 325 feet long, 201 wide, and upwards of 20 feet high, and thoroughly ventilated.

1292. The overhours only occur occasionally in the spring, and not much at other times of the year; and our establishment is so large as to give us greatly increased means to execute large orders in a very short time.

1293. In consequence of the trade being a fancy trade and so fluctuating, there are times of depression when we are not more than half employed; that may continue for weeks together.

1294. If the females were to be placed under restrictions as to hours, we should have to keep more of them permanently, and still further increase the means of executing orders when required; and as upon the whole it is a limited trade, capital so employed would not be productive.

1295. The females generally earn from 5*s.* to 10*s.* a week; a few from 12*s.* to 14*s.*

1296. Mr. Tebbutt, Hosiery Bleach-Works, Basford, Nottingham.—We bleach and finish hosiery (stockings, shirts, and pantaloons), which are manufactured in the villages of this county, and Leicestershire, and Derbyshire. The whole of the bleaching for these goods is done in this village; and in one bleaching-yard (Mr. Eames's) at Lenton.

1297. We employ about 130 hands, of whom 31 are females, and eight boys.

1298. In the bleaching department there are no boys below 18.

1299. The females and boys are employed in "getting up" the hosiery after it is bleached. No steam machinery is employed in this process. It consists simply of stretching, to bring them into proper shape, and ironing.

1300. The hours of work for these females and boys are regulated by their union; it is all piece-work, and they generally get through their day's work in the bleaching department between 6 a.m. and 4½ p.m., and in the finishing department between 8 a.m. and 4, 5, or 6 p.m. They are very seldom later than those hours.

1301. Messrs. Burton & Eames, Basford, Nottingham.—We bleach and finish hosiery, and bleach lace. The hosiery is manufactured in various parts of the town and county, and sent to us to bleach, &c.

1302. In the bleaching department we employ no females or boys.

1303. In the finishing department we employ about 50 females. They are employed principally in ironing and mending hosiery. The boys in this department are employed in turning and tacking hosiery. It is done in rooms similar to those that may be in any private dwelling. It is in the nature of mere domestic work. No steam machinery is employed, nothing more than the needle used in the hand. Machinery cannot be employed in this kind of work. We have about 130 people here altogether. The hours of the bleachers by their own regulation are from April to September from 6 to 6, the rest of the year from 7 to 7, and never work past 8. We acceded to this regulation of theirs voluntarily, as we think it quite long enough. We used to be pressed by the manufacturers to get through work by working through the night, until the men adopted their regulation, about four years ago. We told the manufacturers that they must conform to this, and give us more time, and we have found no difficulty in their doing so.

1304. At Lenton we finish Angola goods, and the hours are the same as for finishers; from 6 a.m. to 7 p.m. in summer, with two hours for meals, and from 7 to 7 the rest of the year. They rarely make any overtime, and never after 9.

1305. Mr. Cox (Cox and Cartledge, Nottingham).—We bleach and print hosiery, and bleach lace. In the bleaching we employ only men, and in the finishing we have no steam machinery whatever. This is universal throughout the trade.

1306. We raise the nap of merino by machinery, but all who do this are already under the Factory Act in that department.

1307. Mr. Milnes, Basford, Nottingham.—We bleach and finish hosiery, and lace and cotton goods. In the bleaching we employ no boys or females. In the finishing department we have no steam machinery.

1308. As regards the raising the nap of the merino goods (brushing), we are already under the Factory Act.

1309. We employ about 120 people altogether.

1310. The three or four other works in the same line of business (besides thosey ou have already visited), are conducted in the same manner as this; they are not extensive works.

1311. Messrs. G. & F. B. Baker, Nottingham.—We dye and dress silk lace. We employ in the dyeing department no females or boys, and in the dressing department no steam machinery.

1312. Mr. Bottom's establishment and ours are the largest in the silk department in this line of business, and all the others are conducted in a similar manner to our own. Steam machinery cannot be used for our processes. It is purely hand-work.

1313. Messrs. J. & W. Lambert, Nottingham.—We dress silk and cotton lace, but we employ no steam machinery for those purposes. This is nearly the largest establishment in the trade, and all are alike in this respect.

1314. The cotton goods are all bleached at Basford and the neighbourhood. The scouring (or dressing) of the silk is done by ourselves. In our dyeing department there are only men.

1315. We employ, when busy, about people altogether.

1316. The other principal employers in this line of business are Mr. Bottom, Mr. Baker, Mr. Thornley, Mr. Bradbury, Messrs. Spencer & Harrison, Mr. Harrison, Mr. Page, Mr. Webster, Mrs. Eden, Mr. Dobson, Mr. Wagstaff. There are only three or four others, which are smaller ones. The processes in all these are precisely similar to ours and those which you have seen.

1317. Mr. Keeley (Nottingham).—We dye skein silk, skein cotton, cotton stockings, cotton and silk lace and laces (broad and narrow). We dye for the manufacturers of hosiery and lace. We employ no steam machinery where boys or females are engaged. This is the case with all the dye works in Nottingham, and also in all the dyeing establishments of Macclesfield, Manchester, Coventry, Derby, and Leek, for the same kind of goods. I have been thirty years in the business, and the majority of the dyeing establishments in Nottingham are offshoots of this. I employ about 120 people when busy. The hours are from 6 to 6, taking two hours off for meals. Whatever overtime they work they are paid for. The boys seldom are kept overtime, and then not more than an hour a day on an average.

1318. The nature of this business does not require boys or females where machinery is employed.

1319. There is no weaving done in the town or county of Nottingham. We dye for the manufacturers of hosiery and lace only.

1320. In lace dressing and dyeing there is nothing like working females and boys against machinery. Therefore in any act that should be passed limiting the hours for females and boys, the hosiery and lace trades ought to be specially exempted. The lace trade is almost exclusively confined to Nottingham and the county.

1321. The hosiery trade is scattered over Leicestershire, Nottingham, and Derbyshire. The bleaching for these is principally confined to Nottingham and the county.

1322. The dyeing for hosiery is done at Derby, Nottingham, and Leicester; and in Derby and Leicester it is carried on as it is here.

1323. The cotton "doubling" factories (making fine twist cotton for lace makers) are already under the Factory Act.

1324. Mr. Thos. Windley, Nottingham.—We dye silk and cotton for the hosiery and lace trade; but we employ no boys under 18 in connexion with any machinery, and no females are employed about the dyeing at all. Mr. Keeley and myself are the two principal dyers in this business, and the only two who employ steam machinery at all.

1325. Mr. Amory Heathcoat, Tiverton.—We manufacture silk and cotton net (lace), and employ about 1250 people. Of these 60 females are employed in the dressing rooms. Their hours of work are from 6 to 6, with one and a half for meals, and two intervals of 20 minutes for rest. These are the usual hours throughout the year, with the exception of from 6 to 10 weeks during our busy season, when they begin work sometimes at 5, and go on till 9, with those intervals, and half an hour for tea besides.

1326. We only employ in that room grown up females. The temperature varies from 80° to 85°, and it is a rare exception to have it higher. The heat is dry, and the ventilation excellent; there is nothing oppressive in the state of the room or in the work, which is very light work. The nature of the demand for these articles of lace is such, that the females will be only employed half their time in work. This cannot be avoided. The work is all by the piece, and the wages vary from 5*s.* in these slack times to 15*s.* or 16*s.* when they work overtime.

1327. We employ no females or boys in the bleaching.

1328. The rest of our people, male and female, are employed in the various processes of the manufacture, and the young among them are never employed beyond the usual hours. If overwork is required, it is done by the men.

1329. In the finishing department, besides the females in the dressing room, we occasionally employ others a few hours overtime, but quite exceptionally, to meet any sudden order. We are subject to competition with the persons of the same trade at Nottingham ; and if they can execute an order by working overhours, they would deprive us of it, especially as they are at the seat of the lace trade

1330. About 35 years ago, Mr. Heathcote transferred his business to this place from Loughborough, in consequence of the Luddite riots in which his machinery was destroyed. At that time the manufacturing trade in woollens at Tiverton had very nearly died out. It scarcely exists now; there is but one left, employing but few hands, and selling also by retail. This mill was then empty. It has since been greatly enlarged, and we now employ the large number of persons (1250) above stated. It is nearly the only place of manufacture in the town. The population has greatly increased since that time, and the poor-rates have very much diminished. The population now is about 11,000 *

1331. At the time of the inquiry which resulted in the passing of the Factory Act, the case of the lace trade was inquired into, and that trade was exempted.

1332. If we are placed under the proposed Act for limiting the hours of labour for females and boys in bleaching, finishing, and dyeing establishments, the anomaly will exist of 60 or 70 of our females being under the Act (none of our boys will come under it), and about 1200 hands being exempt.

1333. If we should be placed under the Act, we should either discontinue the finishing portion altogether, or put up additional accommodation at considerable cost.

1334. [The manufacturing and the finishing processes here go on upon the same establishment, the first by machinery, the latter by hand only. The only other establishments of this kind in the West of England, at Chard and Barnstaple, send their goods to Nottingham to be bleached and finished.]

(*Referred to in* § 243.)

1335. Letter from Mr. R. PEARCE to H SEYMOUR TREMENHERE, Esq.

Committee Room, Bridge Inn, Bolton,
26th May 1855.

SIR,

JOHN WARING went to Mr. Ridgway Bridson's establishment last night about 9 o'clock, and sent for the foreman of the clamping room to ascertain if the statement made by him to you (at the latter end of February) was correct, concerning the boys at the clamping engines. He (Wright Mathers) said the statement made by himself would bear the strictest scrutiny and could be clearly proved. It was 9 o'clock at night when John Waring saw him, and at that hour the room was 130 degrees by the glass. He was as pale as a corpse, and his trousers were wet through with sweat, and he had to work in that state along with females and boys some hours more. They have to work in that heat the hours stated by him, 16, 17, and 18, with only time for meals. The heat frequently reaches 150 degrees during the middle of the day, and continues that height for hours together.

This is the statement made by Wright Mather, foreman of the clamping room, at Mr. Bridson's, to John Waring.

I beg leave to remain
Your obedient Servant,
RICHARD PEARCE, Secretary.

NORWICH.

1336. Messrs. STARK & Co. (Norwich).—We dye silk, cotton, and worsted. We are general dyers and dressers, and employ when busy from 50 to 60 people, of whom only one or two are boys. Our hours of work are generally from 6 to 6, with two hours for meals.

* " The woollen manufacture of Tiverton, and other towns in the West of England, commenced shortly after the year 1353, when Edward III. removed the mart of English wool from Flanders to this country.

" In 1591, the population, augmented by many industrious persons who were driven from the Low Countries by the tyranny of Spain, amounted to 5,000.

" In 1612, when the whole town was burnt, the population was 8,000. The contributions under the 'brief' of James I. enabled it to be rebuilt, and its trade revived.

" In 1715, the population was 8,700.

" About the year 1745, the staple manufacture of Tiverton began to be supplanted in the markets of Holland by the Norwich 'stuffs,' and other woollens, and the poor frequently wanted employ. The evil was heightened by contentions, which frequently occasioned riots and tumults, prevented the execution of orders at seasonable times, and proved very injurious to the trade." *Dunsford's History of Tiverton.*

The rise of competing manufactures in the West of England, and subsequently in Yorkshire, have by degrees caused the almost entire disappearance of the woollen trade from this town.

1337. There is no bleaching done at Norwich.

1338. Mr. Gedge and myself are the only two dyers in Norwich who employ machinery.

1339. Mr. GEDGE, Norwich.—We are general dyers and finishers of silk and worsted goods, and employ about 80 men and one or two boys. Our hours are from 6 to 6, with two hours for meals.

1340. Mr. HOWES, hot pressing establishment, Norwich.—We do not use steam machinery. None is used in this kind of work. It is pressing silks, cottons, and worsteds.

1341. Mr. BARKER, Norwich.—I am a hot presser and general dresser of silk and worsted goods. Steam machinery is not employed in our kind of work. There is no other kind of finishing of woven goods done in Norwich, distinct from manufacturing (which is under the Factory Act), except by the dyers and hot pressers.

1342. Messrs. GUINAND & Co., Spitalfields.—We are silk dressers and finishers; we have steam machinery for that purpose, but we do not employ females or boys. Messrs. Archer & Perry, and Messrs. Stanbridge & Co. are also in the same line of business in a larger way, and employ neither females nor boys. Our hours are from 6 to 6, and in winter from 7 to 7.

1343. Mr. PEARSON, skein silk dyer, Bethnal Green.—We employ about 28 men, and 10 boys. We have no steam machinery. This is about the largest dyeing establishment for coloured silks in Spitalfields. There is no branch of business in the silk line that requires females or boys to work against machinery.

1344. THEODORE ELFES, foreman (Mr. Drevon, silk dyer).—We dye skein silk only, and employ about 30 men, and four boys. The usual hours are from 6½ to 7, and very seldom beyond that. We have four women employed in getting up the silk to send home. Men's hours are from 7 to 7, and very seldom later. No machinery is employed about that, and the only machinery we have here is the hydro-extractors and rollers, but the boys are not employed about the machinery at all.

1345. Mr. SMITH (Messrs. Frith & Smith, silk dressers, Spitalfields).—We are silk dressers and finishers, and employ about 15 people, of whom three or four are under 18. We employ steam machinery for calendering. Our hours are from 7 to 7. Sometimes we go on beyond that, but we do not like working overhours, and seldom go beyond a couple of hours. The only other silk dresser in our line is Mr. Henderson, who employs about the same number of people, in the same manner as we do. Messrs. Archer & Perry, and Messrs. Stanbridge, are the two other silk dressers of satin, and do not employ boys or females.

1346. Mr. ARCHER (Messrs. Archer, Perry, & Archer).—We are the largest employers in the business of satin dressing and embossing in Spitalfields. We employ no females or boys. Mr. Stanbridge is in the same line, and employs no females or boys.

APPENDIX.

APPENDIX.

Appendix A.

Sir, Manchester, July 8th, 1854.

At a meeting of the master bleachers of Lancashire and Cheshire held to-day in this city, it was unanimously resolved to memorialize Lord Palmerston upon the subject of the Operative Bleachers' Short Time Bill, lately introduced into the House of Lords by the Earl of Shaftesbury.

I take the liberty of sending you the annexed copy of the memorial which will be presented to Lord Palmerston in a day or two, and to request you will have the goodness to promote the object of the memorialists as much as possible, as it involves most materially the welfare not only of the master bleachers but also of the operatives themselves.

I have, &c.
J. H. Ainsworth,
Chairman of the Bleachers' Association.

To the Right Honourable Lord Palmerston, Her Majesty's Principal Secretary of State for the Home Department.

* The Memorial of the undersigned Master Bleachers and Finishers of Cotton Cloth,

Showeth, That your memorialists, whose works are situate in the vicinity of Manchester and Bolton, the principal locality in England where the trade of bleaching and finishing is carried on, have heard that your Lordship lately had an interview with a deputation from the committee of the operative bleachers and finishers who are desirous that a ten hours' Bill applicable to bleach-works shall be passed.

That your memorialists and the master bleachers generally are most decidedly opposed to such a measure, being satisfied that the immense property and capital necessarily employed in the trade would be seriously injured, and that injury and loss would also be sustained by the work-people.

That the application of a ten hours' Bill to our works would increase the cost of bleaching and finishing, and as it is now only by the greatest care, industry, and skill, that we are enabled to compete with those countries (such as America, India, China, Holland, and Germany) which are at present the great markets for our labour, your memorialists feel satisfied that the passing of this Bill would cause a great part of their business to be transferred to other countries, and that two millions of capital now employed would be injuriously affected.

That the trade of bleaching and finishing is difficult to manage, and it differs from other branches of the cotton trade in this,—that the supply of goods to be bleached fluctuates, and during some portions of the year we are only partially employed, whilst at other times we have more work to do than could be accomplished if the hours of labour were restricted.

That your memorialists are satisfied that the irregularity in the supply of cloth to be bleached and finished cannot be remedied in the way the promoters of this Bill seem to anticipate.

That your memorialists deem it a matter of the greatest importance to remind your Lordship that the application of a ten hours' Bill was considered by Government at the time the Printers' Bill was under consideration, in which Bill it was intended that bleach-works should be included, but when the case was fairly laid before Sir James Graham, the then Secretary for the Home Department, bleach-works were omitted.

That your memorialists do not doubt that on inquiry your Lordship will find that the operative bleachers and finishers are amply remunerated for their labour, and are a healthy and hardy class of people. From the evidence of the most respectable medical practitioners, and the sick and burial societies, it is clear that the mortality in this branch of the cotton trade is lighter than in any other.

That the forbidding by Act of Parliament the employment of children under ten years of age in bleach-works is needless, as they are not required.

That your memorialists humbly hope that your Lordship will not suffer this Bill to pass into a law.

And your memorialists will ever pray, &c.

Appendix B.

(Copy.)

† To the Honourable the Commons of Great Britain and Ireland in Parliament assembled.

The humble Petition of the undersigned Clergymen and Members of the Medical Profession of the Borough of Manchester and Salford in the County of Lancaster.

Showeth, That your Petitioners have long known with regret, that it is customary in the several bleaching, finishing, and dyeing establishments in the United Kingdom for females

* Referred to in §§ 29 to 41 of the Evidence. † Referred to at p. viii. of Report.

and young persons to labour for 14, 16, 18, and 20 hours per day, and frequently for days and nights consecutively, without intermission except for meals.

That such a system is attended by most injurious consequences to those unhappily subjected to it, as, in addition to the unwholesome atmosphere pervading such establishments, they are virtually prohibited from being brought within the circle of those influences which give a healthy tone to the intellectual nature of man.

That your Petitioners understand that a Bill is before your Honourable House to restrict the labour of females and young persons employed in bleaching, finishing, and dyeing establishments to 10½ hours per day.

That your Petitioners are justified by their own experience in declaring that such a measure would be a wise and beneficial one, and has long been highly necessary.

Your Petitioners therefore pray that your Honourable House will be pleased to pass it into law.

And your Petitioners, as in duty bound, will ever pray.

MANCHESTER.

C. D. Wray, Canon of Manchester.
Samuel Warren, LL.D.
J. P. Pitcairn, Rector of Longsight.
William Robert Stephens, Longsight.
William Whitworth, M.A. Minister of St. Jude's.
Daniel Noble, M.D.
Peter Royle, Surgeon.
William Doyle, B.A.
Joseph Moss Kirkman, Surgeon.
R. T. Hunt, M.R.C.S., Eng.
George Greaver, M.R.C.S., Eng.
James D. Brocklehurst, Wesleyan Minister.
Samuel Crompton, Surgeon.
George Bellasps Masfen, Surgeon.
E. Davieson, Surgeon.
W. Winn, Surgeon.
Farquhar Milne, M.R.C.S., L.A.S.
M. Heckrcher, M.D.
W. C. Williamson, M.R.C.S.L., F.R.S.
John Hatton, F.R.C.S.
Thomas H. Watts, M.D.
Ralph Heathcote, Surgeon.
John Windsor, F.R.C.S., &c.
Ralph W. Ledward, Surgeon.
J. Ogden Fletcher, Surgeon.
Henry Reid, M.D.
Joseph Barnise, Surgeon.
Charles James Rix, Surgeon.
Thomas W. Dyson.
George Morley Harrison.
Robert Walker, M.D.
John Raines, M.R.C.S. and L.S.A.
William Roberts, M.D. and C.
Alexander McAuley, Wesleyan Minister.
Benjamin Wood, Baptist Minister.
James Sutcliffe, Independent Minister.
Charles Burton, LL.D.
Wm. W. Beaver, Surgeon to the Royal Infirmary.
James L. Yardsley, Knt. M.D.
Joseph Stead, Surgeon.
George James Knapp, Surgeon.
Ethbert Simpson, Veterinary Surgeon.
Joseph Gibson Downe, Surgeon.
Charles Clay, M.D.
Alexander Wilson, M.D.
Samuel Vaughan, Clergyman.
William Lees, M.R.C.S., Esq.
George William Pethinger, M.R.S.C. and L.S.A.
George Pethinger, M.D.
James Robb, L.R.C.S.E., L A.C.L.
Thomas Wild, M.R.C.S. Eng., and L.S.A.
John Smith, M.R.C.S. and L.S.A.
Samuel Whitlow, M.R.C.S. Eng.

SALFORD.

Hugh Stowell, M.A. Hon. Canon of Chester, &c.
Patrick Charles Nicholson, B.D., Domestic Chaplain to Lord Carlisle.
Ephraim Harper, B.A. St. Saviour's Parish, Salford.
John Edmund Ledgwick, St. Simon's.
J. N. Pocklington, Curate of Trinity Church.
John Marshall, Curate of St. Philip's Church.
George Taylor, Minister of Irwell Street Chapel.
James Macpherson, Minister of King Street Chapel.
George Smith, Primitive Methodist Minister.
George W. Guest, B.A., Curate of St. Stephen's.
J. E. Booth, M.A., Incumbent of St. Stephen's.
Thomas Hacking, Wesleyan Association Minister.
Edward Jones, Minister of Gravel Lane.
William Illingworth, Minister of Brunswick Chapel.
Thomas C. Ire, Minister of New Windsor Chapel.
Henry. W. McGrath, M.A. Rector of St. Pauls, Rersal.
D. Howarth, Bolton Street Chapel.
James Moore, Minister of St. Bartholomew's.
Benjamin Town, Curate of ditto.
Edward Watker, M.A., Incumbent of St. Matthias Church.
Frank B. Wright, M.A., Rector of St. John Broughton.
David Everard Ford, Richmond Chapel.
Owen Jones.
William Jepson, M.D.
Thomas B. Holland, M.R.C.S. Eng.
Francis H. Walmsley, M.R.C.S. and L.S.A.
William Hall, M.R.C.S. Eng.
George Southam, F.R.C.S.
Joseph Crighton, M.D.
G. H. Bowers, D.D., Dean of Manchester.
Thomas F. Brownbill, F.R.C.S.
George Gardow, Surgeon.
Joseph Teale, M.R.C.S. Eng.
John Stack Steel, Surgeon.
Mark Oliver Larmuth, M.R.C.S. Eng., L.S.A. Lar & Co.
Thomas Middleton, F.R.C,S.
Alexander Somers, F.R.C.S.
William Crosby, M.R.C.S. L.S.A.
William Hopkinson, Surgeon Dentist.
William Holt, M.R.C.S.

MANCHESTER—*cont.*

George Cochrane, M.R.C.S.
T. J. Wilkinson, Surgeon.
James Wilson, Surgeon.
R. H. Heathcote, Surgeon.
L. Bonhards, M.D.
John Wait, Surgeon.
J. N. W. Wainright, M.D.
Joshua Barlow, Surgeon.
Job Sheppard Fletcher, Surgeon.
James Jodrell Cooke, M.R.C.S., Esq.
Joseph C. Peatson, M.R.C.S., Esq.
Henry Swift, Surgeon.
John Gregson Harrisson, M.D., F.R.C.P.E.
John McDowall, M.D.
Edward Sidebottom, Surgeon.
James Bardsley, M.A, Clerk.
Andrew Inglis, Minister of Chalmer Presbyterian Church.
James G. Malinson, Clergyman.
Charles Thompson, Surgeon.
W. Skinner, Surgeon,
W. Leighton Jeffries, B.A., Incumbent of St. Clement's.

SALFORD—*cont.*

Ralph Milner, Surgeon.
Alexander Stocks, M.R.C.S. and L.S.A.
W. Henry Horn, Surgeon, &c.
Edward Watson, M.R.C.S. and L.S.A.
John H. Askwith, Surgeon.
J. B. Wood, M.D.
James Miller, Surgeon, &c.
James S. Harrison, F.R.C.S., &c.
J. D. Carew, M.R.C.S. and L.A.C.
Thomas Heywood, M.R.C.S. Eng.
Edward Billet Birks, L.S.A.
James Flemming, M.R.C.S.
John Brown, Surgeon, &c.
Daniel Lynch, M.R.C.S. Eng.

APPENDIX C.

TABLE showing the number of days' wages (calculated to be earned in about eight hours) made in one of the principal bleach-works in the neighbourhood of Bolton, by each set of work-people employed, beyond or below the number of the working days in each month.

Number of Working Days embraced	24	24	30	24	24	30	24	24	30	24	24	25	—
Sets, 1854.	January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.	Average.
	Day .	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	Days.	
Unloaders	24	24	30	24	24	30	24	24	30	24	24	30	26
Banders	21½	22½	27¾	22¼	22	34½	29	33½	37	26¾	27	37¼	28·5
Dressers	34	38¼	41¾	28½	28½	47	38¾	44	41¼	32½	36	52	38·6½
Bowkers (boiling)	29¾	31	40½	29½	29½	44	37½	42	42	32½	34½	48	36·8¼
Crofters, No. 1. set	35½	40½	49	34	30	52	41	40¾	43½	34½	35½	52	40·8¼
„ Wheelers	26	27¼	37½	26	26	40½	33¾	39	41	30¼	31	44	33·6¼
„ Tubbers	29	30¼	38¼	35½	28¾	44½	37¼	41½	42¼	33½	34¼	48½	37·3½
„ Haggers	32½	35½	44	35	30	43	36¾	39½	36	25½	30½	40½	35·8¾
„ No. 4. set	35½	32½	43½	30¾	27½	53	35½	38½	39	30½	32½	43	36·9¾
„ White washers	25½	27	33½	25½	26	39½	33	37½	40	29¾	30½	43	32·6¾
„ Squeezers	33½	34¼	42½	32	32¼	46½	39	41	45	30¾	33½	46½	38·0¾
White-manglers	31¼	34¼	36½	29	30½	38	44½	44	52	30¾	40½	47½	38·2¼
Dyed ditto	17	30½	48	32	34	31¼	30	31½	38	25	25½	32½	31·2
Rawers	17	32	44½	33	31	29	29	26	32	32¼	29½	34¼	31·2
Stovers	24¾	29¾	35½	27¼	30½	28	32½	38	46½	23¼	33½	41	32·6
Pelters	24	24	30	24	24	30	24	24	30	24	24	30	26
Calico Packers	24½	25¼	28½	21¼	27½	33¼	40	39¾	51½	23½	36¾	43½	32·11
Calender set	22¼	32½	41½	30½	34¼	36	36	38	46	26	29¼	40	34·4
Makers up	29¼	42	53½	36¼	37½	38½	41	39½	40¼	37	35	43½	39·5½
Shirting Packers	22¾	32½	43¼	29	30	31	32	31¾	37¾	27	28	34	31·7
Beetlers	8¼	23	27½	25¼	19½	22½	21½	27	27¼	22	12¼	15	20·10¼
Chest Manglers	25	35½	58¾	45	49¼	49¼	39¼	35½	39¾	42	44	44½	42·3
Canroyers	23	28	33	24	28	33	35	30	41½	25	31	37	30·8
Dyers	23	28	33	24	23	26	27	22	25½	21	24½	25	25·6
Black ditto	28½	37	36¾	31	31	35	30	27	36¾	31¼	27	25¾	31·5
Stitchers	22	25	30	20	24	25	24	23	29	4	24	29	24·1

The prices paid by the piece are calculated to enable the worker to earn a day's wage within eight hours, wherever skill or much strength is required. The prices were adopted in 1833, and the improvements for facilitating labour, have been given to the work-people to a great degree, so that now, by reason of those improvements, the same amount of work is done in less time and with less labour in many of the operations and processes than when the list of prices was adopted.

Appendix D.

* Messrs. Du Fay & Co., Trade Report, Manchester.

Comparative Statement of the Prices of Raw Cotton, Cotton Twist, Power-Loom Cloths, Wheat, and the Rates of Discount, &c., &c., from 1846 to 1854.

Years	1846.												1847.											
Months	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	My	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Cotton, Upland Bowed, fair, per lb.	4⅝	4⅝	4⅝	4¾	5	5	5	5	5⅝	5⅞	6	7	7¼	6¾	6½	6	6½	7⅛	7⅜	7⅜	7	5⅜	5 0½	4⅞
Ditto, Upland Bowed, good fair, per lb.	4¾	4¾	4¾	5	5⅛	5¼	5½	5¼	5⅝	6¼	6½	7⅛	7⅜	7¼	6⅞	7⅜	7	7½	7¾	7⅞	7½	6¼	5/0⅝	5¼
Ditto, Pernambuco, fair. per lb.	6	6⅛	6⅛	6⅝	6¾	6¾	6⅝	6¾	7	7⅜	7⅜	7⅞	8⅛	7¾	7⅓	7	7⅓	7¾	8⅓	8¾	8⅝	7⅞	7	6¾
Ditto, Pernambuco, good fair, per lb.	6⅓	6⅝	6¾	7	7⅛	7⅛	7⅛	7⅛	7⅜	7⅝	7⅞	8¼	8⅓	8⅛	8	8¼	8	8⅛	8⅞	9	8⅞	8¼	7⅓	7⅞
No. 40, mule yarn (quality A.), per lb.	9¾	9¾	9½	9¼	9⅛	9⅛	9	8¾	8⅞	8⅛	9	9⅞	10⅛	9⅓	9½	9⅝	9⅝	9⅛	9⅞	9¾	9⅛	8½	8	7¾
No. 30, water twist (quality A.), per lb.	9⅛	8⅞	8½	8¾	8⅝	8⅝	8⅝	8⅝	8¾	9¼	9¼	10⅛	10	9⅜	9½	9⅝	9¼	9⅜	9⅝	9⅝	9⅛	8½	8	8
⅞ power-loom cloths, 72 reeds, 28 yards, per piece.	5/4½	5/4½	5/3	5/3	5/1½	5/1½	5/1¼	5/1½	5/3	5/6	5/6	5/10½	6/0	5/6	5/3	5/4½	5/1½	5/4½	5/7½	5/9	5/4½	5/1½	5/	4/10½
40 inches power-loom cloths, 66 reeds, 38 to 40 yards, per piece.	8/10½	8/7½	8/6	8/4½	8/6	8/6	8/4½	8/3	8/4½	8/7½	8/9	9/4½	9/6	9/0	8/10½	9/1½	8/10½	9/0	9/3	9/3	9/	8/4½	8/1½	8/0
40 inches power-loom cloths, 72 reeds, 38 to 40 yards, per piece.	9/9	9/7½	9/4½	9/4½	9 6	9/4½	9/4½	9/1½	9/1½	9/6	9/7½	10/4½	10/6	10/1½	10/	10/3	9/9½	10/0	10/1½	10/	9/7	8/9	8/7½	8/6
Average prices of wheat per quarter.	56/	55/1	54/9	55/5	56/2	53/3	51/11	47/5	47/2	56/11	6/11	59/11	66 0	72/7	74/7	75/5	81/10	93/9	83/8	71/11	57/10	53/10	53/10	52/9
Rates of discount for unexceptionable bills.	4¼	4½	4¾	4½	4	3¾	4	3½	3	3	3¼	3½	4	4½	4½	5½	6	5½	5½	6	8	8½	8	5½
Average circulation of the Bank of England, in millions of pounds.	22	21	20	21⅓	20¾	20¼	21⅜	21	21	22¼	21¼	20⅓	21⅛	20¼	20¼	21¼	19⅓	18¾	18¾	19	18/0¾	21¼	20	18¾
Average amount of bullion in the Bank, in millions of pounds.	13¼	1	11	13¾	14½	15½	15¾	16	16¼	14⅞	15	15	14	12½	11	9¼	10	10½	9¾	9½	8/0¾	8½	10	12⅓
Declared value of the exports of cotton manufactures.	£17,717,779												£17,382,293											
Declared value of the exports of cotton yarn.	£7,882,048												£5,957,297											

Years	1848.												1849.											
Months	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Cotton, Upland Bowed, fair, per lb.	4⅜	5⅛	4⅝	4⅜	4¼	4⅛	4⅜	4⅜	4⅛	4	4	4	4¼	4¾	4¼	4⅓	4⅜	4⅝	5⅝	5⅝	5¾	6¼	6⅝	6⅜
Ditto, Upland Bowed, good fair, per lb.	5⅛	5¼	4⅞	4⅜	4¾	4⅝	4⅞	4⅞	4½	4⅜	4¼	4¼	4½	5	5	4¾	4¾	5⅛	5⅜	5¾	6	6½	6⅞	6¼
Ditto, Pernambuco, fair, per lb.	6⅓	6½	6¼	6	5¾	5½	5½	5⅓	5⅓	5⅜	5¼	5⅛	5⅛	5⅜	5⅜	5¼	5¼	5¼	5½	6	6⅛	6⅝	6⅞	6⅜
Ditto, Pernambuco, good fair, per lb.	6⅞	6⅞	6⅝	6⅜	6⅛	5⅞	5⅞	5	5⅞	5⅝	5⅝	5½	5½	5¾	5¾	5¾	5¾	5⅞	6	6½	6½	7	7¼	
No. 40, mule yarn (quality A), per lb.	7⅝	8	7⅜	7½	7⅛	6¾	6⅞	6¾	6¾	6⅝	6¾	7	7¼	7¾	7¾	7¾	7¾	7⅞	8	8¼	8⅜	9⅜	9¼	9½
No. 30, water twist (quality A), per lb.	7⅞	8	7¼	7	6⅞	6¾	7	7⅛	7	6¾	6¾	6¾	7⅜	7⅝	7½	7	7⅛	7⅜	7⅞	8⅛	8½	9¼	9⅛	9⅜
⅞ power-loom cloths, 72 reeds, 28 yards, per piece.	4/10½	4/9	4/7½	4/6	4/4½	4/3	4/4½	4/6	4/4½	4/3	4/4½	4/6	4/9	5/3	5/1½	5/0	1/10½	5/1½	5/4½	5/6	5/6	5/9	5/9	5/10
40 inches power-loom cloths, 66 reeds, 38 to 40 yards, per piece.	7/10½	8/0	7/9	7/6	7/6	7/4½	7/6	7/6	7/6	7/3	7/4½	7/4½	7/9	8/3	8/3	8/3	8/3	8/6	8/9	8/9	8/9	9/9	8/10½	9/0
40 inches power-loom cloths, 72 reeds, 38 to 40 yards, per piece.	8/4½	8/7½	8/4½	8/3	8 3	8/1½	8/4½	8/3	8/1½	7/10½	7/10½	7/10	8/4½	8/7½	8/9	9/0	9/0	9/3	9/6	9/6	9/6	9/0	9/7½	9/10½
Average prices of wheat per quarter.	53/3	51/11	50/6	50/9	49/4	47/7	48/2	49/6	53/7	53/0	51/8	48/9	46/5	45/8	45/8	44/6	45/3	44/6	46/4	47/11	44/2	42/0	41/1	39/7
Rates of discount for unexceptionable bills.	5	4	3¾	3¾	3½	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	2½	2½	2½	2½
Average circulation of the Bank of England, in millions of pounds.	20	19	18½	19⅓	19	18⅓	20¼	19½	18¼	19/0½	18¼	18	19¾	19½	18¾	20¼	19¾	18¾	20⅜	19/¾	18½	20	19¼	19
Average amount of bullion in the Bank, in million of pounds.	13	14⅓	15¼	13¾	13½	14¼	14⅛	13⅓	13¾	13/0½	14	15	15	15¼	15¼	14⅓	14¼	15¼	14¾	14/⅓	15	16	15	17
Declared value of the exports of cotton manufactures.	£16,770,868												£20,188,874											
Declared value of the exports of cotton yarn.	£5,927,956												£6,701,920											

* Referred to at p. xii. of Report.

Years	1850.												1851.											
Months	Jan.	Feb.	Mar.	Aprl.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.	July	Aug.	Sept.	Oct.	Nov.	Dec.
Cotton, Upland Bowed, fair per lb,.	6¾	6⅞	6⅞	6⅞	7¼	7½	8	8¼	7⅞	8	7¾	7¼	7⅝	7¼	7½	6⅞	6	5¾	5½	5⅜	5½	5½	5	5
Ditto, Upland Bowed, good fair, per lb.	7	7¼	6¾	7¼	7½	7¾	8¼	8⅜	8¼	8¾	8	8	8	7½	7½	7	6⅛	6⅛	5	5⅜	5⅝	5⅝	5½	5¼
Ditto, Pernambuco, fair.	6¾	7	6¾	7	7⅝	7⅞	8¾	9	8⅞	8⅝	8	8½	8⅜	8⅜	8⅛	7¾	7¼	7	6¾	6⅞	6⅝	6⅜	6¼	6¼
Ditto, Pernambuco, good fair.	7¼	7⅜	7⅛	7⅜	7⅞	8¼	8⅜	9¼	9¼	9⅛	8⅞	9	9	8⅝	8⅝	8¼	8	7½	7⅛	7	7	6⅞	6¾	6¾
No. 40, mule yarn (quality A.) per lb.	10	9⅞	9¾	10	10½	11	11¼	11⅓	11¼	11⅝	11⅜	11¾	11⅝	10¾	10⅝	10	9½	9¼	8⅝	8½	8¼	8	8¼	8
No. 30, water twist (quality A,) per lb.	9½	9⅜	9⅜	9⅓	10	10½	11⅛	11¼	11½	11¼	11	11⅜	11¼	10¼	10¼	9⅞	9	9¼	8¾	9¼	9¼	9	9¼	9
¼ Power loom cloths, 72 reeds, 28 yards, per piece.	6/0	5/9	5/9	5/10½	6/0	6/0	6/1½	6/0	5/10½	5/10½	5/10½	6/0	5/10½	5/7½	5/6	5/1½	4/10½	4/10½	4/9	4/10½	4/10½	4/10½	5/3	5/4½
40 inches power loom cloths, 66 reeds, 38 to 40 yards, per piece.	9/4½	9/0	8/10½	9/3	9/6	9/9	10/0	9/10½	9/7½	9/9	9/9	10/3	10/0	9/3	9/6	9/0	8/6	8/6	8/1½	8/3	8/3	8/1½	8/6	8/7½
40 inches power loom cloths, 72 reeds, 38 to 40 yards, per piece.	10/4½	10/0	10/0	10/6	10/7½	10/9	11/0	11/0	10/9	10/10½	10/9	11/4½	11	10/10½	10/9	10/3	9/9	9/7½	9/3	9/4½	9/4½	9/3	9/6	9/9
Average prices of wheat per quarter.	39/10	39/8	38/1	37/2	38/0	40/0	40/11	43/1	43/2	41/10	40/2	39/11	38/9	37/11	37/2	38/3	38/10	39/4	42/	41/9	39/2	36/7	36/5	3/72
Rates of discount for unexceptionable bills.	2½	2½	2½	2½	2½	2½	2½	2½	2½	2½	2½	2½	3	3	3	3	3	3	3	3	3	3	3	3
Average circulation of the Bank of England, in millions of pounds.	20⅔	20½	19¾	19⅔	20½	20	21¾	21½	20¼	21⅓	20⅓	19¾	21⅛	20	19½	21	20¼	20	21¾	21	20⅛	22	20⅔	19¾
Average amount of bullion in the Bank, in millions of pounds.	17	17	17¼	17	16½	17	17	16¾	16¾	16½	16⅛	15⅝	14½	14⅓	14⅜	13⅛	13⅜	14⅛	13⅞	14¼	14⅝	15	16	17½
Declared value of the exports of cotton manufactures.	£21,871,930.												£23,447,103.											
Declared value of the exports of cotton yarns.	£6,380,948.												£6,631,896.											

Years	1852.												1853.											
Months	Jan.	Feb.	Mar.	Apr.	May	Jun.	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May.	June	July.	Aug.	Sept.	Oct.	Nov.	Dec.
Cotton, Upland Bowed, fair, per lb.	5	5⅛	5¼	5⅛	5⅛	5⅜	5⅞	6	6	6¼	5⅞	5¾	5⅞	6	6	6¼	6⅜	6½	6⅝	6⁵	6⅜	6¼	6⅜	6⅜
Ditto, Upland Bowed. good fair, per lb.	5⅜	5⅜	5⅜	5⅜	5⅜	6	6⅛	6⅛	6⅛	6⅜	6	5⅞	6	6⅛	6⅛	6⅜	6½	6⅝	6⅞	6⅞	6⅝	6½	6⅛	6¼
Ditto, Pernambuco, fair, per lb.	6⅛	6¼	6⅛	6¾	6⅞	7	7	7	7	7⅛	7	6⅜	6⅝	6⅝	6½	6⅝	6⅝	6¾	7	7	7½	7⅜	7¼	7⅛
Ditto, Pernambuco, good fair, per lb.	6¾	6¾	6⅞	7	7⅛	7¼	7¼	7¼	7¼	7	7⅜	7	6⅞	6⅞	6⅞	7	7	7¼	7⅜	7⅝	7¾	7⅜	7¾	7⅛
No. 40, mule yarn (qual. A.), per lb.	8¼	8½	8¾	8⅞	9⅛	9	9	9	9¼	10¼	9½	9½	9⅝	9¼	9¼	9⅜	9¾	9¾	9¾	9⅝	9	9	9	9¼
No. 30 water twist (qual. A.), per lb.	9¼	9⅜	9¼	9¼	9¼	9¼	9¼	9¾	9¾	10¼	9¾	9¾	9½	9⅝	9½	9½	9¾	9¾	10	9¾	9½	9½	9⅜	9¼
¼ Power Loom cloths, 72 reeds, 28 yards, per piece.	5/6	5/7½	5/7½	5/7½	5/7¼	5/7½	5/7¼	5/7½	5/9	5/10½	5/9	5/9	5/9	5/9	5/9	5/9	5/9	5/0½	6/0	6/0	5/0¼	5/9	5/9	5/9
40 in. Power Loom cloths 66 reeds, 38 to 40 yards per piece.	8/9	8/10½	8/10½	8/10½	9/0	9/0	9/0	9/	9/	9/6	9/3	9/3	9/3	9/3	9/3	9/3	9/4½	9/6	9/6	9/6	9/3	9/3	9/3	9/3
40in. power loom cloths, 72 reeds, 38 to 40 yards per piece.	9/10½	10/0	10/1½	10/1½	10/3	10/3	10/3	10/3	10/3	10/9	10/9	10/9	10/9	10/9	10/7½	10/7½	10/9	10/9	10/9	10/9	10/6	10/3	10/3	10/4½
Average prices of wheat per quarter.	37/6	40/8	42/7	41/11	40/9	40/9	41/0	40/4	42/	38/11	39/2	41/3	45/8	45/9	45/3	44/11	44/5	44/1	48/1	52/0	53/0	62/4	70/9	71/8
Rates of discount for unexceptionable bills.	3	3	2½	2½	2	2	2	2	2	2	2	2½	3	3	3	3	3	3½	3½	3½	4½	5	5	5
Average circulation of the Bank of England, in millions of pounds.	22¼	21¼	21	23	22½	22⅝	25	24¼	25	24⅓	24⅛	23¾	25	23½	23	25	24	24	25	24⅓	23½	24½	23	22
Average amount of bullion in the Bank, in million of pounds.	17¾	19	19¾	19¼	20⅓	21⅛	22	21¾	21⅜	21¼	21¼	21⅛	19½	18⅜	19⅛	18¾	18	18⅜	17⅝	17⅛	15⅝	15	15⅞	15¼
Declared value of the exports of cotton manufacturers.	£23,028,348.												£25,259,874.											
Declared value of the exports of cotton yarn.	£6,655,344.												£7,449,511.											

Years - -	1854.												1855.											
Months - -	Jan.	Feb.	Mar.	Apr.	May.	June	July.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May.	June	July.	Aug.	Sept.	Oct.	Nov.	Dec.
Cotton, Upland Bowed fair, per lb.	6¼	6¼	6⅛	6	6¼	6¼	6	6⅛	6	6	6	5 7/8	5⅝											
Ditto, Upland Bowed, good fair, per lb.	6⅜	6⅜	6⅜	6¼	6⅜	6⅜	6⅜	6½	6¼	6¼	6¼	5¾	5½											
Ditto, Pernambuco, fair, per lb.	7	7	6⅞	6¾	6¾	6¾	6¾	6¾	6¾	6¾	6¾	6¾	6½											
Ditto, Pernambuco, good, fair, per lb.	7⅛	7⅛	7⅛	7	7	7	7	7	7	7	7	6⅞	6¾											
No. 40, mule yarn (qual. A) per lb.	9⅛	9⅛	9	8¾	8½	8⅝	8¾	8¾	8¾	8⅝	8¼	8	8											
No. 30, water twist, (qual. A.), per lb.	9½	9½	9⅜	9⅛	9	9	9	9	9	8¾	8⅝	8⅛	8											
¼ Power loom cloths, 72 reeds, 28 yards, per piece.	5/9	5/9	5/6	5/6	5/3	5/3	5/3	5/3	5/3	5/3	5/1½	5/1½	5/1⅓											
40in. Power loom cloths, 66 reeds, 38 to 40 yards, per piece.	9/3	9/3	9/3	9/3	9/3	9/1½	9/0	8/10½	8/9	8/6	8/3	8/1½	8/0											
40in. Power loom cloths, 72 reeds, 38 to 40 yards, per piece.	10/4⅓	10/4½	10/4½	10/3	10/1⅓	10/1⅓	10/1⅓	10/0	9/9	9/6	9/3	9/1⅓	9/0											
Average prices of wheat per quarter.	7 52	81/7	79/0	77/4	79/1	78/8	76/1	67/10	59/2	55/5	64/6	73/1	73/1											
Rates of discount for unexceptionable bills.	5	5	5	5	5½	5½	5½	5	5	5	5	5	5											
Average circulation of the Bank of England, in millions of pounds.	23½	24½	22⅝	23½	21⅝	20½	21¼	25¼	20⅜	22	21	20	21											
Average amount of bullion in the Bank, in millions of pounds.	16⅛	16¼	14⅝	13⅜	12½	13⅞	13⅝	13¾	13¼	13½	13¾	14⅛	12⅛											
Declared value of the exports of cotton manufactures.																								
Declared value of the exports of cotton yarn.																								

FIRST REPORT

OF

THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE

STATE OF THE COUNTY COURTS

AND THE COURSE OF PRACTICE THEREIN,

AND PARTICULARLY WITH RESPECT TO THE

FEES LEVIED IN THE SAID COURTS;

TOGETHER WITH

AN APPENDIX.

Presented to both Houses of Parliament by Command of Her Majesty.

LONDON:
PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

1855.

CONTENTS.

Page

COMMISSION - - - - - - - - - - - - - iii

REPORT - - - - - - - - - - - - - 1

OBSERVATIONS BY MR. J. PITT TAYLOR - - - - *between* 51 & 53

APPENDIX :—

Costs in Local Courts of Record - - - - - - - - 55

Minutes of Evidence - - - - - - - - - - 57

COMMISSION.

(L. S.)

VICTORIA REG.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith: To Our right trusty and well-beloved Councillor Sir John Romilly, Knight, Master and Keeper of the Rolls in Our High Court of Chancery, Our trusty and well-beloved Sir William Erle, Knight, one of the Justices assigned to hear Pleas before Us, Sir Charles Crompton, Knight, one other of the said Justices, Henry Fitz Roy, Esquire, Henry Singer Keating, Esquire, one of Our Counsel learned in the Law, John Herbert Koe, Esquire, one other of Our Counsel learned in the Law, Alfred Septimus Dowling, one of Our Serjeants at Law, John Pitt Taylor, Esquire, and Joseph Randolph Mullings, Esquire, greeting:

Whereas We have deemed it expedient for divers good causes and considerations, that a Commission should forthwith issue to inquire into and ascertain the state of the Courts established under an Act passed in the session of Parliament held in the ninth and tenth years of Our reign, entitled "An Act "for the more easy recovery of Small Debts;" Now know ye, therefore, that We, reposing great trust and confidence in your great discretion and integrity, have authorized and appointed, and by these presents do authorize and appoint, you the said Sir John Romilly, Sir William Erle, Sir Charles Crompton, Henry Fitz Roy, Henry Singer Keating, John Herbert Koe, Alfred Septimus Dowling, John Pitt Taylor, and Joseph Randolph Mullings, or any four or more of you, to inquire into and report on the state of the said Courts and the course of practice therein, and particularly with respect to the fees levied in the said Courts, and whether the same can be reduced in amount, or can be levied in a manner less burthensome to the suitors, and whether the costs of proceedings in the said Courts can be reduced, and whether any and what alterations and amendments can be made for the better administration of justice in the said Courts, and whether any and what business can be usefully and properly transferred to them in addition to that which they now perform. And for the better discovery of the truth in the premises, We do by these presents give and grant to you, or any four or more of you, full power and authority to call before you, or any four or more of you, such and so many of the Judges, Clerks, and other officers of the said Courts, and all such other persons as you shall judge necessary, by whom you may be informed of the truth in the premises, and to inquire of the premises by all other lawful ways and means whatsoever. And We do hereby give and grant unto you, or any four or more of you, full power and authority to cause all or any of the Judges, Clerks, and other officers of the said Courts to bring and produce before you, or any four or more of you,

all books, papers, or other writings belonging to the said Courts or to any of the officers within the same.

And Our further will and pleasure is, that you do, within one year after the date of this Our Commission, or sooner, if the same can conveniently be done, (using all diligence,) certify unto Us in Our Court of Chancery, under the hands and seals of you, or any four or more of you, what you shall have done in the premises.

And We further will and command, that this Our Commission shall continue in full force and virtue, and that you Our Commissioners, or any four or more of you, shall and may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

And for your assistance in the execution of this Our Commission We have made choice of Our trusty and well-beloved Henry Nicol, Esquire, to be Secretary to this Commission, and to attend you, whose services and assistance We require you to use from time to time, as occasion shall require.

Given at Our Court at Saint James's, the Twentieth day of August 1853, in the Seventeenth year of Our Reign.

By Her Majesty's command,

(Signed) PALMERSTON.

FIRST REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY

IN HER HIGH COURT OF CHANCERY.

Commission.

YOUR Majesty having been pleased to issue a commission authorizing and appointing us to inquire into and report on the state of the Courts established under an Act passed in the session of Parliament, held in the 9th and 10th years of Your Majesty's reign, intituled "An Act for the more easy Recovery of Small Debts," and the course of practice therein, and particularly with respect to the fees levied in the said Courts, and whether the same can be reduced in amount, or can be levied in a manner less burthensome to the suitors, and whether the costs of proceedings in the said Courts can be reduced, and whether any and what alterations and amendments can be made for the better administration of justice in the said Courts, and whether any and what business can be usefully and properly transferred to them in addition to that which they now perform; we, Your Majesty's Commissioners, in the execution of the duties imposed upon us, have proceeded to examine and consider the important subjects on which we are desired to report.

We commenced the discharge of our duties by addressing interrogatories to the Judges, Officers of the Court, and other persons whom we considered to be capable of giving useful information on the matters within the scope of our commission; we also examined witnesses on the same subjects, and from time to time procured returns which we thought likely to assist us in our inquiries.

Before stating our opinions, and recommendations, concerning the matters referred to us by your Majesty's commission, we propose to commence this, our first report, by an exposition of the state of the Courts as they at present exist, with reference to the following matters.

First. The establishment of the Courts, p. 1.
Secondly. The jurisdiction, p. 2.
Thirdly. The Judges, Officers, and Advocates, p. 6.
Fourthly. The procedure, p. 10.
Fifthly. The fees, p. 19.
Sixthly. The costs, p. 22.
Seventhly. The accounts, p. 23.
Eighthly. The revenue of the Courts, p. 23.
Ninthly. Application of revenue, p. 24.

First, Establishment of Courts.

The Courts to which our inquiries, in obedience to Your Majesty's instructions have been directed, were established in the year 1847, in pursuance of the statute of the 9th and 10th Vict. cap. 95, intituled "An Act for the more easy Recovery of Small Debts;" and the title, by which the Court under consideration is generally known, is "The County Court." It is a court of record, and has a seal with which its process must be stamped.

County Court a Court of Record.

Supervised by Superior Courts.

The County Court, like all inferior jurisdictions, is subject to the supervision of the Superior Courts by writs of certiorari and prohibition. The granting of the latter is facilitated by the 13 & 14 Vict. c. 61. s. 22, which enables a Judge to issue such writs in vacation, as well as in term.

Districts formed.

In pursuance of the 9 & 10 Vict. c. 95., the whole of England and Wales, with the exception of the City of London, which is specially excluded from the operation of the Act, was in the year 1847, by Order in Council, divided into districts. These varied in extent and population. In determining what parishes and townships should be included in the different districts, the wishes and convenience of the inhabitants were consulted, and from time to time, several modifications of the original arrangement have been made by successive Orders in Council. The number of districts originally formed was 491, but, on the petition of certain places, has been increased to 495, which constitute

the existing districts. In each of these districts one and in some cases two Courts have been established, the number of which is now 500. The Court is held in that part of the district which, on inquiry, appears most convenient to the majority of the inhabitants. The building in which the Court sits has, in some instances, been erected by Government specially for the purpose; sometimes it is a town hall, court house, or other public building belonging to a county, city, borough, or town; sometimes it is a dissenting chapel, a savings bank, a literary institution, or an inn, according to the conveniences for the purpose which the neighbourhood presents. With respect to the public buildings belonging to counties, cities, boroughs, and towns, the free use of them is secured by statute to the Court as a matter of right; but, in other cases, the place of holding the Court is either built or hired by the Treasurer with the sanction of Government, and the expenses are paid out of the general fund of the Court.

And distributed among circuits.

These 495 districts are distributed in numbers varying from one to thirteen among sixty different divisions or circuits. To each of these divisions or circuits, a Judge has been appointed.

JURISDICTION.

Secondly, Jurisdiction.

The jurisdiction of the County Court is both original and auxiliary.

ORIGINAL JURISDICTION.

Original.

This jurisdiction is legal and equitable.

LEGAL JURISDICTION

Legal jurisdiction.

The legal jurisdiction is of three kinds: exclusive, concurrent, and by consent.

Exclusive jurisdiction.

The exclusive jurisdiction is conferred by the 9 & 10 Vict. c. 95.

Proviso.

By sect. 58 of that Act, it is provided, "that all pleas of personal actions, "where the debt or damage claimed is not more than twenty pounds, whether "on balance of account or otherwise, may be holden in the County Court "without writ; provided always, that the court shall not have cognizance of "any action of *ejectment*, or in which the title to any corporeal or incorporeal "hereditaments, or to any toll, fair, market, or franchise, shall be in question, or "in which the validity of any devise, bequest, or limitation, under any will or "settlement may be disputed, or for any malicious prosecution, or for any "libel or slander, or for criminal conversation, or for seduction, or breach of "promise of marriage."

Jurisdiction protected.

The jurisdiction is protected by sect. 90 of 9 & 10 Vict. c. 95, which prevents the removal of any plaint into the superior Courts, unless the debt or damage claimed shall exceed 5*l.*, and then only by leave of a Judge of one of the superior Courts, on such terms as he shall think fit. This provision is confirmed by sect. 16 of 13 & 14 Vict. c. 61.

And enforced.

The jurisdiction, in cases not within the above provisions, and not within the exceptions contained in sect. 128 hereafter mentioned, is enforced by sect. 129, which deprives the plaintiff of costs, if he obtain a verdict in a superior Court for a sum less than 20*l.* in actions founded on contract, or less than 5*l.* if founded on tort; and where the verdict in such cases is for the defendant, he is entitled to his costs, as between attorney and client; unless in either case, the Judge trying the cause shall certify that the action was fit to be brought in the superior Court: by sect. 13 of 13 & 14 Vict. c. 61., these provisions are extended to cases in which the parties have not proceeded to verdict. The provisions as to deprivation of costs are modified by sect. 11 of the same statute, which excludes judgments by default from their operation.

Judge's decision in such cases final.

The decision of the Judge of the County Court whether assisted by a jury or not is final in cases within this branch of the jurisdiction.

Protection Cases.

Another branch of exclusive jurisdiction of the Court is that which is exercised in protection cases. By sect. 4 of 10 & 11 Vict. c. 102, the jurisdiction under the "Protection Acts" (5 & 6 Vict. c. 116, and 7 & 8 Vict. c. 96), is transferred to the County Court in cases arising more than 20 miles from the General Post Office in London. The decision of the Judge in these cases is final. Protection cases.

Nuisances.

Where, under the 11 & 12 Vict. c. 123., a nuisance has been removed under certain circumstances from premises by a person other than the owner or occupier, the former is entitled to sue the latter in the County Court for the expenses incurred in so doing. In these cases, although questions of title may and do frequently arise, the decision of the Court on the matter is final. Nuisances.

Concurrent Jurisdiction.

The jurisdiction given by sect. 58 of 9 & 10 Vict. c. 95, is, by sect. 128, rendered concurrent with that of the Superior Courts, where the parties reside more than 20 miles from each other, or where the cause of action does not arise wholly or in some material point within the district within which the defendant dwells or carries on his business at the time of bringing the action, or where an officer of the Court is a party, except in respect of a claim to goods taken in execution by process of the Court. Concurrent jurisdiction. Where claim does not exceed 20*l.*

By 13 & 14 Vict. c. 61, s. 1, a jurisdiction, where the amount of the claim for debt or damages does not exceed 50*l.*, is conferred on the County Court, subject to the exceptions contained in the proviso of sect. 58. of the 9 & 10 Vict. c. 95. This jurisdiction is, however, concurrent with that of the Superior Courts, and is subject to appeal at the instance of either party who is "dissatisfied with the determination or direction of the Court, in point of law, or upon the admission or rejection of any evidence." The 15 & 16 Vict. c. 54, s. 2, provides that such appeals shall be disposed of as part of the ordinary business of the Court to which the appeal is made. Where claim exceeds 20*l.* Appeal.

Replevin.

The County Court has also concurrent jurisdiction in replevin. By sect. 119 of 9 & 10 Vict. c. 95, all actions of replevin in cases of distress for rent in arrear, or damage feasant, must be brought in the Court created by this Act instead of the common law County Court; but either party, on complying with certain conditions, may remove the plaint, if he declares to the court "that the title to "any corporeal or incorporeal hereditament, or to any toll, market, fair, or "franchise, is in question, or that the rent or damage in respect of which the "distress shall have been taken, is more than 20*l.*" Unless, therefore, the plaint be removed in conformity with the provisions of that section, the County Court has jurisdiction to decide all questions of title, and is not limited to any amount. Replevin.

Ejectment.

The proviso in sect. 58 is modified in certain cases of ejectment by sect. 122 of the same Act, which enables landlords, after the expiration of the tenancy, to recover possession of houses, lands, or other corporeal hereditaments, where the rent or value of the premises does not exceed 50*l.* a year, and no fine has been paid. Ejectment.

Customs.

Jurisdiction in certain matters connected with the administration of the Customs Law has lately been conferred on the Court. By sect. 263 of 16 & 17 Vict. c. 107 (the Customs Act), the Crown may sue in the County Court for duties or penalties not exceeding in any case the sum of 100*l.* The decision of the Judge is final in such cases. By sect. 318, in case of any alleged illegal seizure of any boat, vessel, or goods by the custom house officer, an action may be brought against him in the County Court where the damages claimed do not exceed the amount to which the jurisdiction of the Court is limited ,and sect. 319 provides that the case shall not be tried by a jury, except by consent of both parties, and that the decision of the Judge shall be subject to appeal in the same manner as is allowed in other actions triable in the Court. Customs.

Jurisdiction by Consent.

Jurisdiction by consent.

Under the provisions of sect. 17 of 13 & 14 Vict. c. 61, the parties may by consent confer a jurisdiction on the County Court, notwithstanding that the amount of the claim may exceed 50*l.*, and that the action is one "in which the title to "land, whether of freehold, copyhold, leasehold, or other tenure, or to any "tithe, toll, market, fair, or other franchise, shall be in question." It will be observed that the cases in which questions of law may by consent be decided by the County Court are not so numerous as those excepted by sect. 58 of 9 & 10 Vict. c. 95. By the 17 & 18 Vict. c. 16. s. 1. the decision of the Judge in such cases is subject to appeal on the same grounds as in cases, where the sum claimed exceeds 20*l.* but does not exceed 50*l.*

Appeal.

Arresting Ships.

Arresting ships.

By the 527th section of 17 & 18 Vict. c. 104, (the Shipping Act,) in the event of an injury having been done by one vessel to another in any part of the world, it will on and after the 1st May 1855 be competent for the judge of the County Court, in certain cases, on the complaint of the injured party, to direct the vessel to be detained until satisfaction is made for the alleged wrong or security is given to abide the event of a legal proceeding in respect of it.

EQUITABLE JURISDICTION.

Equitable Jurisdiction.

The equitable jurisdiction of the County Court is concurrent and by consent, but can not be treated as exclusive except in protection and insolvency cases.

This jurisdiction is confirmed by the 9 & 10 Vict. c. 95., and several subsequent Statutes.

Partnership; Distributive Share; Legacy.

Partnership; distributive share; legacy.

By sect. 65 of 9 & 10 Vict. c. 95, the jurisdiction of the Court is extended to the recovery of any demand not exceeding the sum of 20*l.* (now by the 13 & 14 Vict. c. 61, to 50*l.*) "which is the whole or part of the unliquidated "balance of a partnership account, or the amount or part of the amount "of a distributive share under an intestacy, or of any legacy under a will."

By sect. 17 of 13 & 14 Vict. c. 61, the consent of the parties will give jurisdiction in such cases to any amount.

Friendly Societies.

Friendly societies.

By 13 & 14 Vict. c. 115, s. 22 (Friendly Societies Act), if a dispute arise between the members and the trustees, treasurer, or other officer or committee, and is of such a kind that for the settlement of it, according to the laws now in force, recourse must be had to a court of equity, it may be referred at the option of either party to a Judge of a County Court.

This Act is continued by the 15 & 16 Vict. c. 65, s. 4, to the end of the session of 1854, and by the 17 & 18 Vict. c. 101, to the 1st October 1855 and the end of the then next Session of Parliament.

Industrial and Provident Societies.

Industrial and Provident Societies.

The above provisions, applicable to Friendly Societies, are extended by 15 & 16 Vict. c. 31, s. 8, to industrial and provident societies.

Charitable Trusts.

Charitable trusts.

By the 16 & 17 Vict c. 137. (The Charitable Trusts Act, 1853,) sect. 32, where the gross annual income of any charity does not exceed 30*l.*, and where equitable relief is required, jurisdiction, subject to certain conditions contained in the Act, is given to the County Court to entertain the application, and to "give such "relief and make such orders and directions in relation to the matter of such

" application as now might be made or given by the Court of Chancery, or by " the Lord Chancellor, entrusted with the care and commitment of the custody " of lunatics, in a suit regularly instituted, or upon petition, as the case may " require." It is provided, however, by s. 41, " that no County Court shall, " upon any proceedings under this Act, have jurisdiction to try or determine " the title at law or in equity to any real or personal property, or any term or " interest therein, as between any charity or the trustee thereof, and any person " holding or claiming such real or personal property, term or interest, adversely " to such charity, or to try or determine any question as to the existence or " extent of any charge or trust." By sect. 39 of the Act, a right of appeal, subject to certain conditions, is given to the party who alleges himself to be aggrieved by or dissatisfied with any order made by any County Court. It may be observed, that although the jurisdiction under this Act extends only to charities, the annual income whereof does not exceed 30*l.*, yet should the amount with which a defaulting trustee is chargeable exceed the sum of 50*l.*, there is no provision in the Statute which excludes the jurisdiction of the County Court in such a case.

Succession Duties.

Succession duties.

By sect. 50 of the 16 & 17 Vict. c. 51 (Succession Duties Act), any accountable party dissatisfied with the assessment of the Commissioners may, on complying with the conditions prescribed in the section, if the " sum in dispute " in respect of duty on such assessment does not exceed 50*l.*, appeal to the " Judge of the County Court, who will have jurisdiction to hear and determine " the matter of the appeal and the costs thereof." His decision is final. Considering the interests in property, which is the subject of the duty, as well as the provisions of the Act with respect to its collection, it is evident that difficult questions of equity as well as of law may arise in the determination of the appeal. In consequence of the mode in which sect. 50 is expressed, a far greater sum than 50*l.* may become the subject of inquiry in the County Court.

Insolvency and Protection.

Insolvency and Protection.

Both in protection and insolvency cases various questions of an equitable description do of necessity frequently arise.

Literary Institutions.

Literary and Scientific Institutions Act.

By the Literary and Scientific Institutions Act 1854, in case of any institution contemplated by the Act being desirous of dissolving itself and any dispute arising among the governing body or the members of the institution, the adjustment of its affairs shall be referred to the judge of the County Court of the district in which the principal building of the institution shall be situate, who may make such order as he may deem requisite, or, if he find it necessary, he may direct that proceedings shall be taken in the Court of Chancery. The judge is also to determine, in the event of disagreement, to what institution any surplus funds should be given.

AUXILIARY JURISDICTION.

Auxiliary jurisdiction.

The auxiliary jurisdiction of the Court is both legal and equitable.

LEGAL JURISDICTION.

Legal jurisdiction.

Absconding Debtors.

Absconding debtors.

By the 14 & 15 Vict. c. 52, power is given to the Judge of the County Court to issue his warrant for the apprehension of persons sworn to be indebted to the amount of 20*l.* or upwards, and who are about to quit England. This power is subsidiary to actions in the Superior Courts.

Common Law Procedure Act.

Common Law Procedure Act.

By the Common Law Procedure Act 1854, it is provided, that where at any time after the issuing of the writ in any superior court of common law it appears to the satisfaction of the court or a judge, upon the application of either

party, that the matter in dispute consists wholly or in part of matter, of mere account which cannot conveniently be tried in the ordinary way, it shall be lawful for such court or judge to order that such matter either wholly or in part, in country causes, shall be referred to the judge of any County Court.

EQUITABLE JURISDICTION.

Chancery.

Chancery.

By sect. 22. of the 9 & 10 Vict. c. 95. the Judge may be required to perform all such duties relating to causes or matters depending in Chancery, or any Judge thereof, or before the Chancellor in the exercise of any authority belonging to him, necessary or proper to be done in the respective districts, as the Chancellor shall from time to time by any general order direct.

Joint Stock Companies Winding-up Act.

Joint Stock Companies Winding-up Act.

By sect. 20. of the 12 & 13 Vict. c. 108 (an Act amending the Joint Stock Companies Winding-up Act, 11 & 12 Vict. c. 45), Judges of County Courts sitting at places more than twenty miles from the General Post Office, are appointed Commissioners to act under the powers of that and the previous Statute, and the Master may, by any order under his hand, refer the whole or any part of the examination of any witnesses to any such Judge.

Insolvency.

Insolvency.

The jurisdiction of insolvency under the 1 & 2 Vict. c. 110 is by the 10 & 11 Vict. c. 102. s. 10., vested in the County Court where the insolvent is in custody in any gaol more than twenty miles from the General Post Office. The Insolvent Court in London, to which, the petition of the insolvent must in the first instance be presented, is required in such cases to refer the hearing to the County Court.

In this branch of the jurisdiction, questions of law also arise.

Common Law County Court.

Common Law County Court retains certain Jurisdiction.

Except as to matters brought by statute within the jurisdiction of the newly established court, the County Court at common law retains its powers and jurisdiction, and may be held simultaneously with the modern County Court.

It is proper to observe, that no privilege is allowed to exempt any person from the jurisdiction of the modern County Court.

JUDGES, OFFICERS, ADVOCATES.

Thirdly, Judges, &c.

We will now proceed to the next head, which concerns the Judges, Officers, and Advocates of the Court.

Judge.

Judge. Qualification.

In order to become the Judge of a County Court, the necessary qualification was, at the original establishment of the Courts, that he should be a barrister-at-law of at least seven years standing, or that he should have practised as a barrister and special pleader for at least seven years, or have acted in the capacity of Judge in some one of certain local Courts mentioned in the 9 & 10 Vict. c. 95. In the event of any of the Judges dying, resigning, or being removed, the qualification of his successor must be, that he is a barrister of at least seven years standing, or that he has practised as a barrister and special pleader for at least seven years, or that he has been the county clerk of the same county at the time of passing the 9 & 10 Vict. c. 95. The Judge is appointed by the Lord Chancellor in districts without the limits of the Duchy of Lancaster, and by the Chancellor of the Duchy within the limits of the Duchy. It is competent for the Lord Chancellor or the Chancellor of the Duchy of Lancaster, within their respective jurisdictions, to remove any Judge from any district for the purpose of appointing him to any other district in which the salary of the Judge shall not be less than in the district from which he shall be so removed. He is removable at the discretion of the Lord Chancellor or Chancellor of the Duchy respectively, for inability or misbehaviour. When

Qualification of successor.

How appointed.

How removable.

Disqualification.

appointed he cannot sit as a Member of Parliament, nor can he practise at the bar, or as a special pleader, or equity draftsman, or be directly or indirectly concerned as a conveyancer, notary public, solicitor, attorney, or proctor, and if an attorney, he cannot hold certain offices which, having regard to the present qualification of a Judge, it is not necessary to enumerate.

Appointment of deputy.

In case of illness or unavoidable absence, the cause of which absence must be entered on the minutes of the Court, the Judge may appoint a deputy to perform the duties of his office. The remuneration of the deputy, however, is by the Judge himself. As no cessation of holding his Courts is permitted, he may, with the sanction of the Lord Chancellor, appoint a deputy to act for him during any time or times not exceeding in the whole two calendar months in any consecutive period of twelve calendar months. In that case also, he must remunerate the deputy out of his own resources.

Qualification of deputy.

The qualification of the person to be appointed deputy is, in the former class of the cases above mentioned, that of being the Judge of another County Court, or a person who has practised as a barrister for at least three years, or as an attorney of one of Her Majesty's Superior Courts of Common Law for ten years, but not then residing or practising as an attorney in the district for which the Court is holden; in the latter, the qualification is that of being a Judge of another County Court, or a person who has practised as a barrister-at-law for at least three years. If the deputy be a barrister, he cannot, during the time he acts or shall be entitled to act as such deputy, practise, except in the district of the Westminster County Court, as a barrister in any Court within the district for which he acts or shall be entitled to act as such deputy.

Judge may act in the commission of the peace.

If the name of any Judge of a County Court be inserted in any commission of the peace for any county, riding, or division of a county, in which he is appointed Judge, he is competent to act in the execution of the office of justice of the peace, although not qualified by estate as required by law in the case of other justices of the peace.

Holding Courts.

The Judge is required to hold a Court in each district at least once in every month, or at such other interval as one of the Secretaries of State shall order. Of the monthly Court, he must give at least three months notice; but he may hold additional Courts without such notice. He is not permitted to hold more than one Court in any one day. No vacation is allowed to the Judge, except the time elapsing between the monthly holding of the Courts. Where a Judge has twelve or thirteen Courts on his circuit this period is necessarily short.

Number of Judges.

The number of existing Judges is sixty.

Clerk.

Clerk.

To each Court, at least one clerk is appointed; but in many cases, one person has been appointed clerk to several Courts. For the future, however, no clerk can be appointed to more than one Court, unless no local attorney will accept the office, or the Chancellor shall otherwise direct. Each clerk hereafter to be appointed must be resident in the district for which he is appointed.

Qualification.

The qualification of a person proposed to be clerk is that he shall be an attorney of one of Her Majesty's Superior Courts of Common Law.

Appointment. How removable. Security.

He is appointed by the Judge of the Court, subject to the approval of the Lord Chancellor or the Chancellor of the Duchy of Lancaster respectively. No particular form of appointment is necessary. He is removable at the discretion of the Lord Chancellor or Chancellor of the Duchy respectively. On his appointment he is bound to give security for such sum, and in such manner as the Commissioners of Her Majesty's Treasury shall order, for the due performance of his office, and for the due accounting for and payment of all moneys received by him by virtue of his office, or which he may become liable to pay for any misbehaviour in his office.

Disqualification.

When appointed, the clerk is not permitted to be directly or indirectly concerned as attorney or agent for any party in any proceeding in the Court.

Appointment of deputy.

Where the clerk by illness or unavoidable absence is prevented from acting in his office, he may, with the approval of the Judge, or in case of inability of the

clerk, the Judge may, appoint a person qualified to be appointed clerk of the Court to act as deputy, but he is liable to be removed at the clerk's pleasure. When the clerk appoints a deputy, the reason of such appointment must be entered on the minutes of the Court in which he acts.

Duties.

The clerk, besides attending the sitting of each Court, is bound to issue all summonses, warrants, precepts, and writs of execution, and register all orders and judgments of the Court; to take charge of and keep an account of all Court fees and fines payable or paid into Court, and of all moneys paid into and out of Court; and to enter an account of all such fees, fines, and moneys in a book belonging to the Court, to be kept by him for that purpose, and to submit his accounts to be audited and settled by the treasurer. In protection cases, he is the official assignee of the insolvent estate. A variety of other duties in matters of detail, necessary to the convenient conduct of the Court and the clerk's office, are required by the rules of practice to be performed by him.

Remuneration.

His remuneration on the first establishment of the Courts was, and still generally is, by certain fees appointed to be taken upon the proceedings in Court. A power was, however, reserved to the Government to pay the clerk by an annual salary, not exceeding 700*l.* Out of the fees which the clerks are authorized to take, they are bound to pay their assistant clerks. The above power of the Government has been exercised in fifteen districts, where the clerk had only been appointed to one Court, and the annual salary appointed to each is 600*l.*, with one exception, where the salary is 500*l.* The salaries of the necessary assistant clerks are also paid by the Government in those cases. Where one clerk has been appointed to several Courts, and in some instances the number of them is twelve, he usually makes an arrangement with some local attorney in each district to act as assistant clerk of the Court attached to it; a share of the fees is generally the remuneration of the latter, the amount being matter of agreement between the principal and assistant clerk. In some thinly populated districts, the share of the fees which the assistant clerk receives does not exceed 10*l.* per annum.

Distinction between deputy and assistant clerks.

It may be convenient here to point out the distinction between a deputy clerk and assistant clerk. A deputy clerk must have the same qualification (that of being an attorney of a Superior Court) as a principal clerk; he can only be appointed in certain emergencies, and with the sanction of the Judge. An assistant clerk need not be so qualified (though he generally is), and he may be appointed without the sanction of the Judge. The former, by virtue of his appointment, can act in Court, and perform all the duties of the principal clerk; the latter cannot act in Court, and can only perform such duties as the principal clerk prescribes.

High Bailiff.

High Bailiff.

To each Court, at least one high bailiff is appointed. As in the case of the clerk, one high bailiff is sometimes appointed to several Courts.

Qualification.

No especial qualification is required for the person filling the office.

How appointed.

The high bailiff is appointed by the Judge, by order of Court.

How removable.

This officer may be removed by the Lord Chancellor or the Chancellor of the Duchy of Lancaster respectively at his discretion.

Security.

The high bailiff is bound to give security in the same form, and for the same matters, as the clerk.

Disqualification.

When appointed he is not permitted, directly or indirectly, to be engaged as attorney or agent for any party in any proceeding in the Court.

Duties.

The duties of the high bailiff are to attend every sitting of the Court for such time as shall be required by the Judge, unless when his absence is allowed for reasonable cause by the Judge; to serve all summonses and orders, and to execute all warrants, precepts, and writs issued from the Court; to conform to the rules of practice regulating the proceedings of the Court; and, subject to them, to obey the order and direction of the Judge. The rules of practice, as in the case of the clerk, prescribe certain minute regulations for the convenient

conduct of the office. He also acts as messenger in protection and insolvency cases.

He is responsible for the acts and defaults of himself and his assistant bailiffs, in like manner as the sheriff of any county in England is responsible for the acts and defaults of himself and his officers. Liability.

The high bailiff is empowered to appoint, in writing, a sufficient number of able and fit persons, not exceeding such number as the Judge shall allow, to assist him in his office. These sub-bailiffs are liable to be dismissed at the pleasure of the high bailiff, or to be suspended or dismissed by the Judge. Sub-Bailiffs.

This officer is remunerated by the fees allowed by the statutes and the Secretary of State's orders in respect of the proceedings of the Court. He is bound to provide for the execution of the duties of the office out of the fees thus allowed. The Government has power to put this officer on salary. Remuneration.

Treasurer.

The treasurer is an officer of the County Court appointed by the Commissioners of Her Majesty's Treasury, and removable at their pleasure. No special qualification appears to be necessary to enable a person to accept this office. He is bound to give security for the same matters as the clerk or high bailiff. The number of these officers is twenty-three. Treasurer. Qualification. Security.

The treasurer cannot act as an attorney or agent directly or indirectly for any party in any proceeding in the Court. Disqualification.

To each is assigned a certain number of districts within which his duties are to be performed. These duties consist in auditing half-yearly, quarterly, or oftener if necessary, the accounts of the clerk of the Court connected with the ordinary duties of his office, as well as those incident to the office of registrar and official assignee in protection cases; in receiving the balances of the various moneys properly to be paid over to him; in paying the Judges their salaries and travelling expenses; in disposing of the balance remaining in his hands, as directed by the Commissioners of the Treasury; and in submitting annually to the Audit Board an account of his receipts and disbursements, with proper vouchers in respect of them. The account is then audited, and a statement of it transmitted to the Commissioners of the Treasury, who, after considering it, give directions as to the making up and passing of the account. It is then signed by two Commissioners of Audit, who are empowered to sign a certificate in the nature of a quietus, which operates as an effectual discharge to the treasurer and to all other intents and purposes. Besides the duties already described peculiarly relating to the supervision of the clerk's accounts, other duties devolve on the Treasurer with reference to the Courts. He is required, with the approval of one of the Secretaries of State, to build, purchase, hire, or otherwise provide, messuages and lands, with all necessary appurtenances, for holding the Court, and for the offices connected therewith: or, instead of providing separate buildings, he may contract with the proper persons for the use and occupation of such hall or other building as may be necessary for the purpose of the Court and officers, and subject to such conditions as to rent and repairs, alterations and improvements, as may be agreed on. He is also empowered, with the consent of the Commissioners of the Treasury, to borrow money at interest for the above purposes; and such contracts are binding on him and his successors in office. All the real and personal property belonging to the Court are vested in the treasurer for the time being and his successors in trust for the purposes of the Court. Duties.

The remuneration of this officer is by a salary determined as to its amount by the Lords Commissioners of the Treasury, and that salary was originally charged on the Consolidated Fund, but is now voted annually; the salary varies in amount from 550*l.* to 700*l.* Besides his salary, he receives certain allowances for his travelling expenses incurred in proceeding to the several Courts on his audit. Remuneration.

No two of the offices of clerk, high bailiff, and treasurer can be held by the same person. Non-joinder of offices.

Advocates.

Counsel, Attorneys, or other advocates

Proceedings in the County Court are, as a general rule, conducted by the parties in person. It is competent, however, for any party as a matter of right to appear by counsel and attorney, or by counsel only, or attorney only, such attorney not acting for another attorney in the conduct of the suit in Court. It is, however, a matter of discretion with the Judge whether the costs incurred in obtaining professional assistance shall be allowed as costs in the cause. It is competent for the Judge, if he sees fit upon the hearing, to permit any person other than the advocates already mentioned to appear for parties in the cause.

Employed exceptionally.

With respect to employing an attorney or counsel antecedent or subsequent to the hearing, the costs of that employment cannot, even at the discretion of the Judge, be allowed as costs in the cause. To employ a barrister or an attorney in the conduct of a cause in the County Court is consequently exceptional.

PROCEDURE.

Fourthly, The procedure.

We will now describe the procedure of the Court in the different matters within its original and auxiliary jurisdiction, whether legal or equitable.

ORIGINAL JURISDICTION.

LEGAL JURISDICTION.

Dividing demands.

A plaintiff having one entire demand which exceeds in amount that to which the jurisdiction extends, will not be permitted to divide it into several parts in order to bring each within the jurisdiction, and thus recover the whole; but he is at liberty in such a case to abandon a part of his claim so as to bring the residue within the jurisdiction, and then the judgment for the smaller sum operates as a satisfaction of the whole cause of action.

Venue.

Venue.

It will be convenient to state here the law relating to venue, as it exists in the County Courts.

Explanation of terms.

Previously to doing so, it is necessary to explain that the County Court, in which a party is sued, is called "the Home Court," and every other County Court, when spoken of relatively to this Court, is called "the Foreign Court;" and the districts in which these Courts are held are respectively called "the Home District" and "the Foreign District."

Defendant's place of residence or business generally determines venue.

The general rule is that the dwelling place or place of business of the defendant determines the district in which the suit is to be commenced. Where there are several defendants, any one of them may be sued in the district wherein he dwells or carries on business at the time of bringing the action. Where the defendant, or one of several defendants has dwelt or carried on business, at some time within six calendar months next before the time of bringing the action; or the cause of the action arose in one district and the defendant resides or carries on business in another; the plaintiff may, by leave of the Court, sue in the former. Where, however, the plaintiff dwells more than twenty miles from the defendant; or where the whole or a material point of the plaintiff's cause of action did not arise within the district in which the defendant resides or carries on business at the time of bringing the action; or where an officer of the Court is a party to the proceedings, unless in the last-mentioned case the proceedings relate to goods taken in execution under process of the Court; the plaintiff is at liberty to proceed in the superior Courts without incurring the penalty of losing his costs. The defendant's place of abode or business, therefore, at the time of bringing the action is the leading fact in determining the district in which he is to be sued. The same principle is preserved in proceedings against the person of a defendant, who can only be imprisoned in respect of a judgment, by order of the Court of that district in which he dwells or carries on business at the time of taking those proceedings. The Court in which the judgment was obtained is immaterial for that purpose, unless where the commitment takes place at the time of the trial, as hereafter shown.

Parties.

In the County Court, as in other Courts, all persons who labour under no disability are permitted to sue and be sued, but a peculiarity exists there with respect to plaintiffs, which is, that an infant may sue in his own person for wages or piece work, or for work done as a servant, in the same manner as if of full age. This privilege does not apply to other claims, which must be sued for in the usual way by *prochein amy* or guardian. Infant.

When it is sought to enforce a contract the same rules prevail with respect to parties as in the superior Courts of common law. Parties. Contracts. Plaintiffs.

Any one of the defendants may, however, be sued at the option of the plaintiff, as no objection on the ground of non-joinder is allowed. If, however, too many persons are made defendants, it is a ground of nonsuit. Defendants.

The rules prevailing in the superior Courts as to parties in actions of tort are adopted in the County Court. Torts.

Such powers of amendment are conferred on the Judges that a mistake in making the proper persons parties to the suit seldom produces either inconvenience or injustice to the suitors, either in actions of contract or tort. Amendment.

Practice.

We now proceed to state the practice of the Court. Practice.

The practice under the legal jurisdiction depends partly on the express provisions of the statutes regulating the County Court; partly on certain rules made by a committee of County Court Judges, and sanctioned by a Chief Justice and two other Judges of the superior Courts; and partly, where the case is not provided for by the statutes or rules, on the general principles of practice prevailing in the superior Courts, which are applied by the Judges to the proceedings of the Court. At Law.

As the practice varies to some extent according to the amount of the claim, it will be convenient to state the course of proceeding; first, where the claim does not exceed 20*l.*; secondly, where it does exceed 20*l.*, but does not exceed 50*l.*; thirdly, where the claim is unlimited in amount or the matter in dispute involves a question not within the ordinary jurisdiction of the Court. Varies with amount of claim.

First, where the claim does not exceed 20*l.* 1st. Where claim does not exceed 20*l.*

The proceedings in these cases commence by the entry of a plaint, which the clerk of the Court records in a book kept specially for that purpose. The plaintiff, in order to enter his plaint, states *vivâ voce*, or in writing, to the clerk his own name, addition, and residence; and the name, addition, and residence of the defendant, or such other description as will serve to identify him. He then relates the cause of complaint, and if he demand a sum exceeding 40*s.* he gives one or more copies of the particulars of his claim, according to the number of the defendants, besides one copy which is to be filed by the Clerk. The proper fees for issuing and serving the summons must be paid at the time of entering the plaint. Plaint.

A summons stating in short and popular language the substance of the cause of action, (with particulars, where required, attached,) is issued to the defendant, commanding him to appear at a Court at least ten clear days after the service of the summons to answer the plaintiff in the matter of dispute. Summons.

This process must be served by the high bailiff of the Court, or his assistant, personally, or in some other way, from which, it may reasonably be inferred that it has come to the knowledge of the defendant, in due time before the holding of the Court. If the defendant reside in a Foreign district, the process is transmitted by the clerk of the Home Court to the high bailiff of the Foreign Court, together with a statement of the proper amount of the fees for service in the Foreign district, and which have already been paid at the Home Court. On production of this document, he will at the end of the quarter be entitled to receive from the treasurer the amount of those fees. The object of thus withholding the immediate payment of the fees is, that if due diligence have not been used in Service. In Home district. In Foreign district.

serving the process, the officer may be deprived of his fees by the Treasurer, at the instance of the Judge of the Home Court.

Confession of claim.

If the defendant think proper, he may at this stage of the proceedings enter with the clerk, a confession of the claim, and on it, the Judge may on the hearing day pronounce judgment in the same manner as if he had tried the cause; or both parties may agree on the terms, on which, the cause shall be settled, and on due proof of such agreement before the clerk, he may enter judgment in conformity with it, and the judgment may be enforced in the same manner as one pronounced by the Judge.

Arbitration.

At this period, or subsequently, the cause may, with the consent of the parties, be referred to arbitration by order of the Judge, and the award afterwards entered as the judgment in the cause. Proper powers of supervising the proceedings of the arbitration are conferred on the Judge.

Defence.

If the defendant intend to deny the plaintiff's claim, or to insist on any objection other than one or all of the six special defences hereafter mentioned, it is not necessary for him to give notice of his intention so to do, but he may, at the hearing day, compel the plaintiff to prove his case, may produce evidence in answer, and take such objections in point of law as he thinks available. It is competent for him to pay into Court such sum of money as he thinks proper, in satisfaction of the plaintiff's demand, together with a proportionate amount of fees of Court down to the time of making the payment. If his defence be a tender, he need give no previous notice of it, but may avail himself of it at the hearing, on paying into Court, without costs, the sum alleged to have been tendered. If, however, his defence be founded totally or partially on a set-off, infancy, coverture, a statute of limitation, bankruptcy, or insolvency, he must give five clear days' notice of that defence. Subject to this rule, it is competent for him to avail himself at the hearing of any defence, whether it traverses, or confesses and avoids, the plaintiff's case. No further pleading or notice is necessary; nor is there any formal joinder of issue.

Jury.

If either party be desirous of having the cause heard before the Judge, assisted by a jury, he may claim that privilege as a matter of right, where the claim exceeds 5*l*., and by permission of the Judge, where it does not exceed that sum, a jury may be summoned. The jury consists of five persons, who must give a unanimous verdict. Two clear days' notice of requiring a jury must be served on the clerk, and five shillings deposited with him to pay the jury. The jurymen are selected by the clerk from a list of qualified persons resident within the district, and that list is supplied to him by the sheriff or other proper officer. With few exceptions, however, the cause is tried by the Judge, without a jury.

Appearance.

On the appearance day, the defendant either appears or makes default. We will consider the practice, first, where both parties appear; secondly, where neither appears; and thirdly, where only one party appears.

1st. Where both parties appear.

If both parties appear, the Judge, either without or with a jury, as the case may be, proceeds to hear the cause. Considerable powers of amendment are possessed by him, but the plaintiff is confined to the cause of action stated in the summons. If it appear desirable to the Judge, he is at liberty to grant time to either party to proceed in the prosecution or defence of the suit, or to adjourn the further hearing of the cause to any subsequent time. It is competent for the Judge to non-suit the plaintiff on sufficient grounds. When the case on both sides is closed, the Judge, if unassisted by a jury, decides both on facts and law; if assisted by a jury, he directs them in point of law, and they decide on the facts. Judgment is then given for the plaintiff or defendant, and entered on the minutes of the Court. The Judge also directs the mode of payment of the sum for which judgment is given, and an order is drawn up in conformity with that direction. The order generally requires the unsuccessful party to pay the amount of the judgment either at once or by instalments into Court. The Judge has power to direct the payment to be made to the successful party. This, however, is very rarely exercised, and, having regard to the other arrangements of the Court, would be inconvenient. A copy

Judgment.

of this order is served on the unsuccessful party by post, but proof of its having reached him is not a condition precedent to issuing execution in case of non-payment. The object of the order is that the party may know specifically what and when he is required to pay. A very large majority of orders are for payment by instalments.

Costs.

The costs abide the event, unless the Judge otherwise orders. This, however, does not apply to costs for professional assistance.

New trial.

Should either party be dissatisfied with the judgment, he may, within a limited time fixed by the practice of the Court, move for a new trial. This, the Judge may grant or refuse at his discretion.

2d. Where neither party appears.

If at the hearing day, neither party appears, the cause is struck out of the list.

3d. Where only one party appears.

Plaintiff.

If the plaintiff only appears, proof is given of the service of the process on the defendant, and if no satisfactory reason be assigned for the defendant's absence, the Judge may proceed to hear the cause *ex parte*, and pronounce judgment accordingly. On sufficient cause shown, he may afterwards grant a new trial.

Defendant.

If the defendant only appears, but does not admit the demand, the Judge may award him his costs. If, however, he does admit the demand, and pays the proper fees of Court, judgment may be given for the plaintiff in the same manner as if the plaintiff had appeared.

Power to adjourn.

If at any time in the course of the proceedings, it appears desirable to adjourn them, the Judge is at liberty to do so.

Execution.

The judgment may be enforced by execution against the goods, or, in certain cases hereafter mentioned, by the commitment of the defaulting party for a period of forty or any less number of days. The adoption of one of these proceedings does not prevent the creditor from having recourse to the other. The judgment, however, can not be made available against land.

Goods.

Under the warrant of execution, the high bailiff is empowered to seize all the goods and chattels of the judgment debtor, except his wearing apparel and bedding, tools, and implements of trade, to the value in the whole of 5*l*. The goods cannot be sold, without appraisement, and until after the lapse of five days from the time of seizure, unless of a perishable nature, or the defendant make a written request for an earlier sale. The high bailiff may also seize money, bank notes, cheques, or securities for money belonging to the debtor, and may hold any such securities in order to satisfy the judgment; and the creditor may sue in the name of the debtor on such securities. The proceeds realized under the execution are paid by the high bailiff into Court, after deducting certain charges for appraisement and possession.

Foreign district.

If the defendant's goods are in a Foreign district, the warrant is transmitted to the clerk of the Foreign Court, together with a statement of the bailiff's fees on the execution. This warrant is then sealed with the seal of the Foreign Court, and issued to the high bailiff of that district. The proceeds realized there by the execution are paid into the Foreign Court. The clerk then transmits a particular of the execution to the clerk of the Home Court, debiting himself with the sum received under the execution. On application to the clerk of the Home Court, he pays to the execution creditor the sum, with which, the clerk of the Foreign Court has debited himself. This payment is afterwards allowed him in his accounts by the treasurer at the audit. By this means, the inconvenience and risk of transmitting money from one part of the Kingdom to the other is avoided.

Landlord's claim to rent.

If, when the bailiff levies, he receives notice from the landlord of rent in arrear, he must give preference to that claim to a certain amount, limited by the period of letting, but in no case exceeding one year's rent, and may then levy on the residue for the judgment debt.

Interpleader.

Should any claim be made by third parties on the goods seized, the bailiff can compel the execution creditor and the claimant to interplead, and the Court may dispose of the matter in dispute.

Person.

An order for commitment cannot be obtained as a matter of course, but only on a special application to the Judge in Court. This order may be obtained at the hearing immediately after judgment, when the debt appears to have been fraudulently contracted, or the defendant has been guilty of some other misconduct specified in the Act of Parliament, and dwells or carries on business in the district of the court; or it may be obtained on the hearing of a summons taken out in the district where the defendant dwells or carries on his business at the time of applying, without regard to the district in which the judgment was obtained. The summons requires the debtor to appear and be examined, and intimates that if he do not appear, the Court may proceed in his absence. In addition to the other grounds of committal already referred to, is that of non-payment of the demand, if the defaulter be possessed of means to pay. If the defendant undergo the imprisonment awarded under the order for commitment, the debt is not satisfied or extinguished, and he may, at the discretion of the Judge, in certain cases of subsequent default, be committed for any number of successive periods, not exceeding forty days each, until payment is enforced. Moreover, it seems, the debtor is not protected from this proceeding by a discharge under an Insolvent Act, and no protection, order, or certificate granted by any Court of Bankruptcy, or for the relief of Insolvent Debtors, is available to discharge a party from such a commitment.

Transmission of process.

When the defendant removes from the Home district, the process is transmitted, like other process, to the High Bailiff of the Foreign District.

Prison.

The warrant of commitment orders the bailiff to convey the body of the debtor to prison. This prison is the common gaol of the county or place in which the defendant is resident, and which is used for the confinement of debtors in execution under the process of the Superior Courts, or is some other place of confinement in the county allowed for that purpose by order of the Secretary of State. The Secretary of State has, however, in very few instances exercised his power of allowing places of confinement other than the common gaol of the county to be used for the purposes of the County Court.

Staying execution.

It is competent for the Judge, on sufficient cause shown, to stay a judgment, or an execution, but neither can be stayed or reversed by writ of error or supersedeas thereon.

2d. Where claim exceeds 20*l.* and does not exceed 50*l.*

Next as to the practice, where the claim exceeds 20*l.* but does not exceed 50*l.*

In these cases, the practice and proceedings are the same in all respects, except that if either party be dissatisfied with the determination or direction of the Court in point of law or upon the admission or rejection of evidence,

Appeal.

he may appeal to one of the Superior Courts of common law at Westminster, on depositing the amount of the judgment, or on giving security, to be approved by the clerk of the Court, for the amount of the judgment and

Notice.

costs, or costs only, as the case may be. Of this appeal, notice must be given to the opposite party within ten days after the determination or direction of which complaint is made. A case containing a statement of the facts is then prepared by the parties, which must be signed by the Judge. If the parties cannot agree, the Judge settles the case. It is then transmitted by the appellant to the proper officer of the court selected as the Court of appeal. The appeal is set down for argument, and is disposed of as part of the ordinary business of the Court. The Court of appeal may either order a new trial on such terms as it thinks fit, or may order judgment to be entered for either party, and may make such order with respect to the costs of the appeal as it thinks proper. Those orders are final. The Court of appeal sometimes remits the case to the Judge for the purpose of amendment.

3d. Where claim exceeds 50*l.*, or extraordinary jurisdiction conferred.

The jurisdiction in cases where the claim exceeds the sum of 50*l.* or where questions not within the ordinary jurisdiction of the Court are submitted to its decision is only given by consent.

The mode of giving this consent is by the parties or their attorneys signing a memorandum of agreement, in which they state that they know the cause of action to be above the sum of 50*l.*, or that the title will come in question in the action. This memorandum is filed with the clerk of the Court at the time of entering the plaint. The proceedings in the action are then the same, and conducted in the same manner as in the two classes of claims already mentioned. Consent.

It is to be observed that all local actions brought by consent within the jurisdiction of the County Court, must be brought and tried in that district in which the lands, tenements, or hereditaments, or some part of them, in respect of which the action is brought are situated. Venue.

Replevin.

In this peculiar form of action, in cases of distress for rent in arrear or damage feasant, a new mode of proceeding has been introduced, compounded partly of the mode formerly existing and partly of certain conditions introduced by the statute. Where the distress has been made, either for rent or for damage, the practice still continues of applying to the sheriff or the replevin clerk to replevy, and a bond with sureties in the usual form is still required, except, that part of the condition is to prosecute the suit in the statutory County Court. The replevisor must then in fulfilment of the condition of his bond enter his plaint in the County Court in the district wherein the distress was taken. On entering the plaint, the plaintiff must give to the clerk a sufficient number of copies of particulars of the goods and chattels, which he alleges to have been wrongfully taken. A summons is then issued in the usual way, and the case proceeds to hearing like any other claim. A difference resulting from the nature of the proceeding of course exists in the judgment. If the distress was for rent in arrear, the judgment, whether for plaintiff or defendant, is the same as may be obtained in the Superior Courts of common law. If the distress was for damage feasant, the judgment for the Plaintiff is the same as in the Superior Courts; but if the defendant succeed, the Judge or jury may assess the amount of damages done by the plaintiff's trespass, and the judgment may be in the alternative for a return, or for the damage so assessed. The decision of the Court, whatever the amount of property distrained or whatever questions of law arise in the course of the inquiry, is final. Replevin. Plaint. Particulars Summons.

This is the course of proceeding in actions of replevin, where the case is left to the decision of the County Court.

It is, however, competent for either party to remove the plaint into a Superior Court on giving certain notices prescribed by the rules of the Court, and on making a declaration at the hearing that the title to some corporeal or incorporeal hereditament, or to some toll, market, fair, or franchise is in question, or that the rent or damage in respect of which the distress has been taken was more than 20*l.*, and on becoming bound with two sufficient sureties in such sums as to the Judge shall seem reasonable, regard being had to the nature of the claim and the alleged value or amount of the property in dispute, or of the rent or damage, to prosecute the suit with effect and without delay, and to prove before the Court by which such suit shall be tried that such title as aforesaid is in dispute between the parties, or that there was ground for believing that the said rent or damage was more than 20*l.* On compliance with these conditions, the cause may be removed into any Court competent to try the same in such manner as hath been accustomed. The cause is removed by *certiorari* instead of *recordari facias loquelam;* the statutory County Court, unlike the common law County Court, being a court of record. Removal.

Ejectment.

Although the general language of the proviso contained in sect. 58. of the 9 & 10 Vict. c. 95. excludes actions of ejectment, one particular class of ejectments is by the express provisions of sect. 122. brought within the jurisdiction of the Court. That class is ejectment for the recovery of a house, land, Ejectment.

or other corporeal hereditament, the annual value or rent of which does not exceed 50*l.*, from any tenant whose interest has ended, and who has paid no rent.

Practice.

A plaint and summons are entered and served in the usual way or in the mode prescribed by the statute, and if the Judge be of opinion that the tenancy has been duly determined, and the tenant or sub-tenant refuse to give up possession of the premises, the Judge may issue his warrant to the high bailiff requiring him to give possession to the landlord within ten clear days from the date of the warrant.

Appeal.

If the party against whom the warrant is issued be desirous of raising the question in another Court, as to whether the landlord had, at the time of suing out the warrant, lawful right to the possession, he may stay proceedings on the warrant by becoming bound, with two sufficient sureties to be approved by the clerk of the Court, in such sum as to the Judge shall seem reasonable, regard being had to the value of the premises and the probable costs of the action, to sue the person by whom such warrant was sued out with effect and without delay and to pay costs in certain events: then proceedings will be stayed until judgment has been given in such action, and if a verdict pass for the plaintiff, the verdict and judgment thereon will supersede the warrant. If, however, the tenant should not proceed or should fail in his action, the bond becomes forfeited, and proceedings thereon may be had and the warrant enforced.

Protection Cases.

Protection cases.

In cases within the Protection Acts, the clerk acts as official assignee and registrar, and is bound to present his accounts to the treasurer to be audited, and to pay over to him any balance remaining in hand. The high bailiff acts as messenger.

Practice.

The practice of the Court for the relief of insolvent debtors in London in cases under the Protection Acts, the 5 & 6 Vict. c. 116, and 7 & 8 Vict. c. 96. is adopted in the County Court so far as it is applicable.

Practice in other Cases.

Other Cases.

With regard to the jurisdiction in Customs cases, Nuisances, and Arresting ships, no special practice has at present been established.

EQUITABLE JURISDICTION.

Equitable jurisdiction.

In seeking to enforce a claim for an unliquidated balance of a partnership account, or a distributive share under an intestacy or a legacy, the same practice prevails as in endeavouring to recover any other pecuniary demand.

Charitable trusts. Practice.

The practice with reference to applications under the Act relating to Charitable Trusts, depends on the provisions of the Statute, on certain rules framed by the Lord Chancellor, in pursuance of a power contained in the Charitable Trusts Act, 1853, and on the general practice of the Court.

Persons who may apply.

The persons entitled to apply to the County Court under the jurisdiction conferred by the Act are, Her Majesty's Attorney General, the trustee or one or more of the trustees of any charity, or the person or persons administering, or claiming to administer, or interested in the charity which is the subject of the application, or any two or more of the inhabitants of any parish or place within which the charity is administered or applicable. This distinction, however, exists between applications by the Attorney General and those by any of the other persons before mentioned; that the former may apply to the Court at his discretion, but the latter require the sanction of the Charity Commissioners for the purpose.

Practice.

It will be convenient in describing the practice of the Court on these applications to state; 1st, that which applies to private persons; and, 2d, that which applies to the Attorney General.

Private persons.

The person who is desirous of applying to the County Court for relief having obtained the proper order or certificate from the Charity Commissioners, must file it with the clerk. That officer will then, at the instance of the applicant, and subject to the discretion of the Judge summon or give notice to the proper persons to appear or attend proceedings at an appointed Court. These summonses and notices are served by post, unless the Judge otherwise directs. On the appointed day, the persons summoned to appear, or who have received notice to attend, or any of the persons who are entitled to apply under the Act may appear and oppose the application. The Judge then proceeds to make such order in the matter as to him seems just. This order, together with a copy of the other proceedings, is then transmitted to the Charity Commissioners. If it meet with their approval the order is final, unless some person authorized to make an application under the statute is desirous of appealing against the order.

Appeal.

In such a case, the intended appellant must, within a calendar month after making the order, give notice in writing to the Commissioners and to the Court, of his wish to appeal, stating the grounds of his intended appeal. If the Commissioners think that the appeal should be entertained, they give a certificate to that effect, and proceedings on the order are suspended during such time as the circumstances require. The Commissioners may require the appellant to join in a bond with two sufficient sureties to be approved by the clerk of the County Court, to the treasurer of the Court, or such other person as they think fit, in such sum as they think reasonable, to pay such costs of the appeal as the appellate Court shall order; and also, if they think fit, to indemnify the charity against the costs and expenses of or attending such appeal. On compliance with the requisition of the Commissioners, an order is made allowing the appeal. Within three calendar months, the appellant must present a petition to the Court of Chancery praying such relief as the case may require. Upon the hearing of the petition, the Court may confirm, vary, or reverse the order appealed against, or may remit the order to the County Court by which it was made, with or without any declaration of the Court of Chancery in relation to it; or the Court may dispose of the matter of the order as in the case of a suit regularly instituted, or a petition. If the appellant do not proceed within three calendar months from the time at which the appeal is allowed, the order of the County Court becomes final. If the costs adjudged by the appellate Court to be paid by the appellant are not paid, the bond may be put in suit, and the sum recovered on it applied to indemnify the charity or the person damnified, as the case may require, and as the appellate Court thinks right.

Proceedings by Attorney-General.

The Attorney-General's power to proceed *ex officio* continues in the same manner as if the Act had not been passed; and he may, without the sanction of the Charity Commissioners, make application to the County Court in such matters. On making such an application, he must lodge with the clerk a statement similar to the Commissioners' certificate or order. On the production of this statement, the clerk will take the same steps for the purpose of bringing the cause to a hearing, as on the application of a private person. At the hearing, the same proceedings as in other cases take place. The Judge having heard the application, pronounces his judgment and makes his order. Against this order, the Attorney-General, acting *ex officio*, may, at any time within three calendar months after the order has been made, lodge, commence, and prosecute an appeal, without giving notice or becoming bound, as in the case of private persons, and the County Court is thereupon bound to make an order allowing the appeal. The subsequent proceedings on the appeal are the same as in other cases.

Appeal.

Deputy or jury not allowed to act in charity cases.

It is to be observed that no Deputy Judge is allowed to dispose of these matters, and a jury cannot be summoned to dispose of the facts.

Record of proceedings.

The clerk enters the proceedings in each case under its respective title, in a book kept for that purpose, and the various documents lodged with him are filed.

Other cases.

No special practice has yet been established with respect to the Friendly, Industrial, and Provident Societies Act, the Literary and Scientific Institutions Act, or the Succession Duties Act.

AUXILIARY JURISDICTION.

LEGAL JURISDICTION.

Absconding Debtors.

Absconding debtors.

Where any person is indebted in a sum to the amount of 20*l.* or more, and he is about to leave the country for the purpose of avoiding or delaying his creditors, it is competent for the creditor to apply, under the 14 & 15 Vict. c. 52. to the Judge of any County Court, except the Judges acting in Middlesex and Surrey, for an order to arrest the debtor. If the Judge be satisfied by affidavit that the debt exists, and that the debtor is about to leave the country for the purpose of avoiding or delaying the creditor, he may issue his warrant directed to the High Bailiff, for the purpose of arresting the debtor. The High Bailiff may execute the warrant in any part of England at any time within seven days after its date, including the day of its date. This proceeding by arrest is only auxiliary to proceedings in the Superior Court. If proceedings are not taken in conformity with the provisions of the statute, the warrant does not operate as a protection to the party on whose behalf such warrant has been issued, but is wholly void.

Common Law Procedure Act.

Common Law Procedure Act.

The Common Law Procedure Act, 1854, having been in operation only a few weeks, no practice has at present been established with respect to proceedings under it.

EQUITABLE JURISDICTION.

Chancery.

Chancery.

The power which the Court of Chancery possesses of availing itself of the assistance of the County Courts in certain cases, does not appear ever to have been exercised, and the jurisdiction under the Joint Stock Company's Winding-up Act has been very rarely brought into operation. No peculiar practice, consequently, has been established with reference to those matters.

Joint Stock Company's Winding-up Act.

Insolvency.

Insolvency.

In the exercise of the jurisdiction in insolvency, as regulated by the 1 & 2 Vict. c. 110., the clerk of the County Court acts as registrar, and the high bailiff as messenger.

Practice.

The course of proceeding is, that the prisoner, in whatever part of England he may be confined, beyond twenty miles from the General Post Office, presents his petition for relief under the 1 & 2 Vict. c. 110. to the Court for the Relief of Insolvent Debtors in London. The Court in London forthwith makes an order referring the petition for hearing to the County Court, within the district, of which, the insolvent is in custody, and transmits the petition and schedule to the Court for hearing. The insolvent or his attorney delivers all books, papers, and accounts in his possession, and relating to his debts, credits, or estate to the clerk of the County Court. On the usual day, (of which due notice is advertised) for hearing insolvency cases, the petition comes on in its order, and the matter is disposed of by the Judge in conformity with the provisions of the Statute. The petition and schedule, together with a statement of what has been done in the matter, are then transmitted to the Court for the Relief of Insolvent Debtors in London, where the proceedings are filed. The Judge may recommend, but it seems cannot appoint the creditor's assignee, though his recommendation is generally confirmed by the Court in London. In other respects, the practice of the Insolvent Court in London is applied to the proceedings in the County Court.

Suitors Fund.

Suitors Fund.

If money which has been paid into court to the use of any suitor has remained unclaimed for six years, it becomes applicable to the same purposes as the general fund of the court.

FEES.

Fifthly, the Fees.

The Fees taken in respect of proceedings in the County Courts, may be divided into five classes:—

First, those in respect of specific proceedings taken on the part of suitors, as on the summons, hearing, and other steps in the cause:

Secondly, the General Fund, which is taken on entering the plaint, and which is proportioned to the amount sought to be recovered:

Thirdly, fees which are payable in respect of appraisements on executions:

Fourthly, fees payable in respect of distraining for rent:

Fifthly, fees payable in insolvency and protection cases.

Judges Fees, &c

The first class of fees was appointed by an order of a Secretary of State, dated the 15th November 1850, sanctioned by the Commissioners of the Treasury, in pursuance of the 9 & 10 Vict. c. 95. s. 37. A table of these fees, printed in large letters, is hung up in a conspicuous place in every clerk's office and County Court, so that an immediate check on any attempt at overcharge is secured to every suitor desirous of taking any proceeding in the court. A table of these fees is subjoined.

TABLE of FEES to be taken in the County Courts established by 9 and 10 Vict., c. 95., on and after the 25th day of November 1850.

N.B.—In cases within the ordinary jurisdiction of the Courts, the under-mentioned poundage and fees are to be taken; but where the sum demanded is above twenty pounds, the poundage is to be taken on twenty pounds only. All fractions of a pound, for the purpose of calculating the poundage, shall be treated as an entire pound.

For every Summons, Sevenpence in the pound on the amount of the demand.

For every application for a summons out of the district, Threepence in the pound on the amount of the demand. This sum to include every fee for such application.

NOTICE.—No other fee whatever is to be taken on the entry of a plaint, except for service by the High Bailiff, and for affidavit of service out of the district.

For every Hearing without a Jury, Twenty-six pence in the pound on the amount of the demand.

For every Hearing with a Jury, Thirty-eight pence in the pound on the amount of the demand.

Judgments by consent under the 13 & 14 Vict. c. 61. sects. 8 & 9, and Judgments upon applications in the nature of *sci. fa.*, to be charged the same fee as on the hearing of a cause without a Jury.

NOTICE.—No other Fee whatever is to be taken for the hearing or trial of a cause, except for the service of the Order for the High Bailiff.

For every Subpœna (each Witness); Two shillings, without reference to the amount of the demand.

For entering and giving Notice of a Special Defence; Eighteen-pence, without reference to the amount of the demand.

For any Adjournment of a Cause or other matter to another Court, at the request of either Party; Threepence in the pound on the amount of the demand.

For paying Money into or out of Court, whether before or after judgment, on each payment not exceeding Ten shillings, One penny:—and on each payment above Ten shillings; Twopence in the pound on the amount of the payment.

For Notice to be given, by pre-paid post letter, to Plaintiff, of every payment whatever made into Court; Twopence, without reference to the amount of the payment: out of this fee, the postage of such letter is to be paid by the Clerk.

For issuing any Warrant, Attachment, or Execution; Twopence in the pound on the amount for which such Warrant, Attachment, or Execution issues.

For taking Recognizance, Bond, or Security for Costs; Fourpence in the pound on the amount of the demand.

For inquiring into sufficiency of Sureties; Sixpence in the pound on the amount of the demand.

For application for new Trial, or to set aside Proceedings; Sixpence in the pound on the amount of demand.

For every Summons for Commitment, under the 9 & 10 Vict. c. 95. sect. 98; Sixpence in the pound on the amount of the original demand then remaining due.

For every Hearing of the matters mentioned in such Summons for Commitment; One shilling in the pound on the amount last aforesaid.

NOTICE.—No other Fees than the above to be taken, on any account whatever, except the High Bailiff's Fees for Service. No application to the Court is to be charged with a Fee except those above-mentioned. No increase of Fees shall be made by reason of there being more than one plaintiff or defendant.

HIGH BAILIFF'S FEES.

For serving every Summons, Order, or Subpœna, within Two Miles of the Court House; One penny in the pound on the amount of the demand, except for the service of a Summons under the 9th & 10th Vict. c. 95. sect. 98, when the poundage is to be calculated on the amount of the original demand then remaining due.

For such service, if beyond Two Miles, then extra for every additional Mile; Sixpence, without reference to the amount of the demand.

For affidavit of service of Summons out of the jurisdiction; One shilling, without reference to the amount of the demand.

For execution of every Warrant, or Attachment, against the Goods or Body within Two Miles of the Court House; One shilling in the pound on the amount for which such Warrant, or Attachment issues.

For such execution, if beyond Two Miles, then extra for every additional Mile; Sixpence, without reference to the amount for which such Warrant, or Attachment issues.

For keeping possession of Goods till sale, per Day, (including expenses of removal, storeage of Goods, and all other expenses whatever,) not exceeding Five Days; Sixpence in the pound on the amount for which the Execution issues. [This, however, does not apply to cases of interpleader in which the costs and expenses of possession are in the discretion of the Judge.]

For carrying every Delinquent to Prison, including all expenses and Assistants; One shilling per Mile, without reference to the amount mentioned in the Warrant.

For issuing Warrant to Clerk of another Court; Two Shillings and Sixpence, without reference to the amount mentioned in the Warrant.

N.B.—Where the plaintiff recovers less than the amount of his claim, so as to reduce the scale of Costs, the plaintiff to pay the difference.

The several Fees payable on proceedings in Replevin to be regulated on the above Scale, by the amount distrained for, and on proceedings for the recovery of Tenements, by the yearly rent or value of the Tenement sought to be recovered; but in neither case to exceed the Fees payable on a demand of Twenty pounds.

In cases of extraordinary jurisdiction, given to the Court by the consent of parties to the trial of questions under the 13 & 14 Vict., c. 61. sect. 17, the poundage shall be taken in every such case on the sum of Fifty pounds.

In cases of Interpleader, the Summons is to be issued to the High Bailiff *gratis*, and the poundage for the hearing is to be estimated on the value of the goods claimed, which, in case of dispute, is to be assessed by the Judge. The Costs, however, of the Summons, estimated on the above-mentioned value, shall be included in the general costs, which may, in the discretion of the Judge, be awarded at the hearing.

These fees are taken under the authority of an order made by a Secretary of State and two Commissioners of the Treasury on November 15, 1850

Secondly, the General Fund. This fee is taken under the authority of the 9 & 10 Vict. c. 95. s. 52, which authorized the clerk of every Court to demand on every plaint where the claim exceeded twenty shillings, but did not exceed forty shillings, sixpence, and where it exceeded forty shillings, one shilling, in the pound. It will therefore be observed that the fee to the general fund was not made payable on any sum not exceeding twenty shillings. A power, however, was reserved to diminish, though not to increase, the amount of the above fees at the discretion of a Secretary of State, with the consent of the Commissioners of the Treasury; that power was in the month of November, in the year 1850, exercised, and the fee of one shilling in the pound was reduced to eightpence. The other fee of sixpence in the pound, in sums between twenty shillings and forty shillings, was not interfered with. The fee for the general fund now received in the County Courts remains as altered in the manner described. The object of this fee is to raise a fund for certain purposes, which will be explained under the head of "Application of Revenue." General Fund.

Thirdly, the fees payable in respect of appraisements are taken in pursuance of the 9 & 10 Vict. c. 95. s. 106. Those fees consist of sixpence in the pound on the value of the goods appraised, besides the stamp duty, and one shilling in the pound on the net produce of the sale for advertisements, catalogues, sale, commission, and delivery of goods. Appraisements.

Fourthly, the fees payable in respect of distresses for rent are taken in pursuance of the 9 & 10 Vict. c. 95. s. 107. They are payable in cases where the high bailiff having seized, and notice is received by him from the landlord that rent is in arrear, he is bound to distrain for a certain amount of the rent in arrear proportionate to the rent reserved. He is then entitled to receive, as the costs of the distress, such fees as are authorized by the 57 Geo. 3. c. 93., entitled "An Act to regulate the Costs of Distresses levied for Payment of small Rents." Distresses.

Fifthly, the fees payable on proceedings in insolvency and protection cases, are taken in conformity with the subjoined scales, which were issued under the sanction of a Secretary of State and two Commissioners of the Treasury, on the 8th July 1851. Insolvency and Protection.

In Protection Cases.

Clerk's Fees—(as Registrar).

	s.	*d.*
On filing every petition, affidavit, or other document	1	0
On swearing every affidavit	1	6
For every certificate to authorize advertisement in London Gazette	2	6
For entering every matter for hearing	1	0
For every order pronounced	5	0
For every subpœna	2	0
For every search	1	0
Preparing warrant to bring up petitioner under 7 & 8 Vict. c. 96. s. 7., or order of remand, under set. 24	3	4
For every sitting held in the matter of any petition	5	0
For office copies of proceedings (each folio)		1½

N.B.—When an office copy is made to which a printed form is applicable, printed words are not to be computed by folio; but paper and print will be charged as two folios, 3*d.*, whether the copy be of a schedule or of any other proceeding.

Clerk's Fees—(as Official Assignee).

For every letter for debt, notice of audit and proof, or notice of dividend (inclusive of postage)		4
For summoning assignee to audit and proof of debts, or to dividend meeting	3	4
Sitting, attendance, &c., at audit and proof of debts, or dividend meeting	5	0
Duplicate list of creditors for official assignee, per folio		1½
For preparing Gazette notice of dividend (exclusive of charge for insertion and Gazette)	3	4
Per-centage on gross amount of receipts (not exceeding 5 per cent.).		

In Gaol Cases.

Clerk's Fees.

	s.	d.
Order for hearing	1	0
Warrant to bring up prisoner	1	0
Adjudication	1	0
Warrant to gaoler to bring up prisoner, or to discharge prisoner	1	0
Warrant of attorney executed by prisoner	2	6
Fee on hearing	5	0
For office copies of proceedings (each folio)		1½

In Protection Cases.

High Bailiff's Fees—(as Messenger).

Executing warrant of seizure, to be allowed only when the Judge directs warrant to be executed	5	0
Keeping possession, for each day the man is actually in possession, (of which 3*s.* 6*d.* to be paid to the man,) and including affidavit of possession being kept, per day (the number of days charged to be allowed by the Clerk)	4	6
Preparing advertisements for Gazette, or Newspapers, and attending to insert same (besides sum paid for insertion and Gazette)	3	4
For attendance on Court at each sitting	2	0
Executing warrant to bring up petitioner under 7 & 8 Vict. cap. 9, s. 76. or order of remand, under sec. 24 (besides necessary expenses out of pocket, to be submitted to and taxed by the Court)	6	8
On commitment of any person by the Judge executing the warrant (besides necessary expenses, &c. as above)	6	8
Preparing and service of notice to creditors, on each creditor by post, including postage thereof and affidavit of service	0	4
Ditto (if directed by the Judge to be served *personally*, including affidavit of service)	1	6
Messenger's man travelling to place of possession, to execute warrant of commitment, or any other purpose specially directed by the Court, *per mile*	0	6
If *messenger* directed by the Court personally to travel, his travelling per mile	0	6
,, ,, ,, his time per day	10	0
,, ,, ,, his expenses per day	10	0

In Gaol Cases.

High Bailiff's Fees.

For every copy of order for hearing sent to each creditor, to the amount of 5*l.* and upwards (including postage)	0	4

COSTS.

Sixthly, Costs.

We shall now state the rule prevailing with respect to costs as distinguished from fees of Court.

It is to be observed that no scale of costs as between attorney and client, except in the particular instances hereafter mentioned, exists in the County Courts. Any claim, with those exceptions, which an attorney has against his client for services rendered, must be taxed on the scale of some other Court.

As between party and party, costs of counsel or attorney previous to the hearing are not allowed in any case. Costs of counsel or attorney on the hearing can only be allowed by order of the Judge. Costs of witnesses and other expenses are also entirely in the discretion of the Judge, but in default of any special direction to the contrary, they abide the event of the action. See ante, p. 12.

The costs allowed are divided into four classes: first, of counsel; second, of attorney; third, of witnesses: fourth, of other expenses.

In general, the amount of the claim determines the amount of the fee to counsel; thus, when the claim does not exceed 5*l.*, a fee to counsel cannot be allowed against the opposite party, though it seems it may against the client; where the claim exceeds 5*l.* but does not exceed 20*l.*, a fee of 1*l.* 3*s.* 6*d.* only can be allowed; where the claim exceeds 20*l.* but does not exceed 50*l.*, a fee of 2*l.* 4*s.* 6*d.* only can be allowed; where it exceeds 50*l.*, and in other cases under the consent clause, no scale exists. Counsel.

Fees to the attorney vary with the amount of the claim sought to be recovered. Where the claim does not exceed 40*s.*, the attorney cannot recover costs from any one; where it exceeds 40*s.* but does not exceed 5*l.*, he can only recover from his own client 10*s.*, and nothing from the opposite party; when it does exceed 5*l.* but does not exceed 20*l.*, his costs may be allowed to the amount of 15*s.*; where the demand in any plaint in covenant, debt, detinue, or assumpsit exceeds 20*l.* but does not exceed 35*l.*, he may be allowed 1*l.* 10*s.*, and where the demand exceeds 35*l.* but does not exceed 50*l.*, he may be allowed 2*l.* Attorney.

A person other than an attorney, who is allowed by the Judge to appear for either party, is not allowed to recover any remuneration for his services. Lay advocate.

In demands exceeding 50*l.*, or other cases within the jurisdiction by consent, no scale of professional fees has been established.

The allowance for the attendance of witnesses is fixed by a schedule attached to the rules of Court, and which is subject to the discretion of the Judge, but the amounts there allowed are in no case to be exceeded. Witnesses.

The following is the scale contained in the schedule:

	Per Day.	
	s.	*d.*
Gentlemen, merchants, bankers, and professional men -	7	6
Tradesmen, auctioneers, accountants, clerks, and yeomen -	5	0
Journeymen, labourers, and the like - - -	2	0
Travelling expenses per mile one way - - -	0	6

Fees of Court paid by the successful party, in order to support his claim or defence, become costs in the cause. Other expenses.

ACCOUNTS.

We now proceed to state the manner in which the accounts of the courts are kept. Seventhly, the Accounts.

The clerk of each Court is furnished with a certain number of books by the Treasury, and which are eight in number. They consist of the plaint book, minute book, execution and commitment book, foreign execution and commitment book, foreign execution book, cash book, fee book, and ledger.

These books are so arranged as to operate both as a record of the proceedings of the Court, and a debtor and creditor account of all the receipts, whether of fees or other moneys which come to the hands of the clerk, and of all disbursements made by him. These books operate as a check, so as to render it difficult, if not impossible, for any misappropriation to escape detection. With respect to disbursements, as proper vouchers must be produced to the treasurer at his audit, any defalcation is readily discovered.

REVENUE.

In the year 1853, the total revenue of the courts, independent of the third and fourth classes of fees and the fees in Insolvency and Protection cases, amounted to 253,518*l.* This sum was produced by the fees mentioned in the first and second classes which were levied on the suitors of the courts. Eighthly, the Revenue.

With respect to the revenue arising from the third, fourth, and fifth classes; as those fees are very uncertain in amount, and are not accounted for by the persons receiving them, no return of them could conveniently be procured.

APPLICATION OF REVENUE.

Ninthly, the Application of the revenue.

The purposes to which the above revenue is applied are the following:—

Fees.

The total amount produced by the fees, irrespective of the general fund fee and the fees under the title of high bailiffs fees, is divided into forty parts. Nineteen fortieths are appropriated to the fund, out of which, the judges and their travelling expenses are paid; nineteen fortieths are appropriated to the use of the clerks; and two fortieths to the use of the high bailiffs. On examining the average for several years antecedent to making the above scale of fees, it was ascertained that the amount of judges fees was nearly or exactly equal to that of the clerks fees, and that the fee to the high bailiff, which by the new scale was abolished, for the duties performed by him in court, amounted to about one twentieth of the total of fees produced by proceedings in court. The reason for the division of the fund into fortieths instead of twentieths, was that if such a division as the latter were adopted, a proper share could not conveniently be appropriated to the different claimants upon it.

General Fund.

With respect to the produce of the general fund fee, the amount produced in the courts is devoted to the purposes appointed by law; that is to say, to provide court houses and offices, and the general expenses of the courts.

High Bailiffs fees.

The fees under the title of high bailiffs fees, are retained by the high bailiffs themselves. The fees belonging to the third and fourth classes are retained by the appraiser or the high bailiff as the case may be, and the fees in insolvency and protection cases are retained by the clerks and high bailiffs.

RECOMMENDATIONS.

Jurisdiction.

Recommendations.

We now proceed to state our opinions and recommendations concerning the matters referred to us by Your Majesty's commission, and it will be convenient to commence with the subject of jurisdiction, as being that on which the other matters embraced in our Report must mainly depend.

Legal Jurisdiction.

The jurisdiction to which our present Report will be confined, is that in respect of legal claims, leaving questions as to other branches of jurisdiction to be hereafter considered.

Comparison of County Court procedure with that of the superior courts.

In examining the subject of jurisdiction, we have been necessarily led to compare the procedure in the superior courts with that established in the County Courts. The result of that comparison may be shortly stated.

Superior Courts.

In the former, the means adopted for separating questions of law from those of fact, the exertions of skilled advocates accustomed to practise in the central tribunals of the country, the attendance of a learned and enlightened bar, in whose presence, each judge is required to fulfil the functions of his office, the facility for reviewing his opinion and direction, and for appealing from the decision of the full court, are calculated to insure the satisfactory administration of justice. On the other hand, considerable delay and expense necessarily result from bringing the machinery of those courts into full activity.

County Courts.

In the County Courts, the absence of any pre-appointed means of separating questions of law from those of fact, the non-employment, generally, of legal advocates, the non-attendance of a bar, the rapidity of the proceedings, and the power of the judge finally to decide on all questions of law and fact, except where the claim exceeds 20*l.* in amount, render the judgment of the court less secure against miscarriage. On the other hand, the County Court is near to the residence of the suitors, and the proceedings are simple, cheap, speedy, and final.

Claims of considerable amount best decided in superior courts.

In claims of considerable amount, we are of opinion that the inconveniences incident to the administration of justice in the superior courts are counterbalanced by the greater certainty in the application of the rules of law, than can be expected in a tribunal so constituted as the County Court.

In claims of small amount, we think that the evils caused by an occasional miscarriage are more than counterbalanced by the advantages presented by a local tribunal, the proceedings of which are simple, cheap, speedy, and final. Small claims beneficially decided in County Court

It may perhaps be difficult satisfactorily to define the word "small," as it is a word of relation, but we think it may be conveniently treated for the purposes of jurisdiction as embracing claims not exceeding 20*l.* "Small" claims defined.

With regard to claims exceeding 20*l.*, but not exceeding 50*l.* in amount, we think the jurisdiction should remain concurrent as at present, but that such claims should be subject to removal by the defendant on certain conditions hereafter specified, and we are of opinion that claims of a greater amount, or such as involve questions otherwise excluded from the jurisdiction, should be decided by the County Courts, only where consent has been given for that purpose by both parties, or a superior tribunal has directed the matter to be disposed of in the County Court. In former class of claims, consent express or implied should be required to give jurisdiction to County Court.

We think that the powers and procedure of the Court should be increased and improved, without making any organic change in its constitution, so as to render it as efficient as the nature of the tribunal will permit. Powers to be increased, without organic change.

We propose to divide our recommendations on the subject of jurisdiction into two parts; first, with reference to increasing the present jurisdiction of the courts; secondly, with reference to the introduction of additional securities for the due exercise of that jurisdiction. Division of subject.

FIRST, WITH REFERENCE TO INCREASING THE PRESENT JURISDICTION OF THE COURTS.

We will first consider the jurisdiction of the court, so far as it extends to claims not exceeding 5*l.* in tort, and 20*l.* in contract, and which may be treated, except in certain cases, as its exclusive jurisdiction. Secondly, the jurisdiction in tort, where the claim exceeds 5*l.*, but does not exceed 50*l.*, and in contract where it exceeds 20*l.*, but does not exceed 50*l.*, which is its principal jurisdiction concurrent with that of the superior courts. Thirdly, the jurisdiction in claims beyond that amount, and in certain otherwise excluded questions, which is the jurisdiction by consent. As to increase of jurisdiction.

EXCLUSIVE JURISDICTION.

First, then, as to that which may be treated as the *exclusive* jurisdiction of the court in consequence of the penalty by deprivation of costs in the superior court, should the plaintiff not recover a sum to the amount of 20*l.* or 5*l.*, according to the nature of the claim: the object which the Legislature had in view when it established the County Court evidently was, to secure to the public the benefit of a local tribunal, in which, claims of a moderate amount and not complicated in their nature might be enforced, with cheapness and rapidity. During the seven years, which have elapsed since the establishment of the courts, the experiment has been eminently successful, and benefits have been conferred on the community by means of these courts, which it is perhaps difficult to exaggerate. Honest claims have been enforced, and injuries have been redressed, which the expense, distance, and delay incident to the proceedings of the superior courts, placed in effect beyond the power of the law. Facility to enforce rights has checked the commission of wrongs, and thus a more desirable state of credit and morality has been produced. Exclusive jurisdiction. County Court originally intended to be a small debts court. Experiment successful.

The consideration which we have bestowed upon the subject has not induced us to recommend any considerable extension of the jurisdiction of the court. We think, however, that as actions for false imprisonment are now within the jurisdiction, actions for malicious prosecution might be properly brought within it. Jurisdiction might be extended. Malicious prosecution.

We also recommend that the proviso contained in sect. 58 of the 9 & 10 Vict. c. 95, by which certain questions of title are excluded from the jurisdiction of the court, should continue in force, unless both parties should at the trial consent to the judge deciding the question in dispute. We think that such a jurisdiction might be beneficially conferred by the consent of both parties, where the question arises incidentally to the claim, which it is the immediate object of the action to enforce. Thus, an action may be brought for the value of a tree, which it is alleged that the defendant has wrongfully cut Matters of title by consent, with certain modifications.

down. The defence may be, that the tree was growing on the defendant's own land. The question of title to the freehold then becomes a question incidentally arising in the cause, but which must be decided in order to dispose of the claim. Again, in an action for rent, if the tenancy under the plaintiff be denied, a question of title to the tenement may arise. Both parties may be quite willing that the judge of the County Court should decide between them, but as the law now stands, the judge has no power to do so, and consent would not confer jurisdiction for this purpose.

We recommend, therefore, that if both parties are willing to have the case decided by the County Court judge, an entry to that effect should be made on the minutes of the court, and then that the judgment should be binding on the parties, so far as the immediate question in dispute is concerned, but should not be evidence of title between the parties or persons claiming by, through, or under them in any other proceeding. The parties might thus have the benefit of a proceeding similar to that of a reference to an arbitrator, and obtain an immediate decision at a small expense, instead of being forced to proceed in a superior court at an expense and with an amount of inconvenience far exceeding the value of the matter in dispute; and by the provision, which we recommend, on the subject of evidence, future rights or ulterior proceedings would not be compromised.

It will be observed, that we do not recommend that jurisdiction should be conferred in such cases, where the immediate object of the action is to recover something which the proviso enacts shall not be within the jurisdiction of the court; as, for instance, an action for tolls, or an action for the recovery of a tenement not within the meaning of s. 122.

Costs on judgment by default in superior court not to be allowed.

The present law as to costs in the superior court, so far as it affects jurisdiction, should, we think, remain unaltered, with the exception, that where an action is brought in the superior court on a contract to recover a less sum than 20*l.* and the defendant suffers judgment by default, the plaintiff should recover no costs, unless, upon application, a judge of a superior court should otherwise direct.

Subject to exceptions.

This deprivation of costs, however, we propose should be subject to the exceptions contained in sect. 128 of the 9 & 10 Vict. c. 95, where the parties reside more than twenty miles apart, or the other circumstances contemplated by the section exist.

Concurrent Jurisdiction.

Concurrent jurisdiction.

Secondly, we will consider the concurrent jurisdiction, where the amount of the claim exceeds 5*l.* in tort, and 20*l.* in contract, but does not exceed 50*l.* In those cases, the choice of tribunal between the superior court and the County Court is vested in the plaintiff. This jurisdiction as to claims above 20*l.* was first conferred on the County Court in the month of August 1850, and has been exercised to a very considerable extent, as no less than 39,580 plaints, both in tort and contract, ranging in amount between 20*l.* and 50*l.* inclusive, have been entered in the County Courts between the time of passing the Act and the 31st December 1853, and of these 22,968 have been tried.

It may be useful to state the number of such plaints which have been entered and disposed of in each year respectively, since the passing of the Extension Act, 13 & 14 Vict. c. 61.

In 1850	there were	4,297	plaints	entered,	and	2,436	causes tried.
„ 1851	„	13,446	„	„		8,236	„
„ 1852	„	12,567	„	„		7,020	„
„ 1853	„	9,270	„	„		5,276	„

Defendant's implied assent required to give jurisdiction in such cases.

We are of opinion, that in such cases, the defendant should have an opportunity of expressing his dissent from the plaintiff's choice of tribunal. We see no objection to the plaintiff being permitted as at present to exercise his option in the first instance, for he must in all cases initiate the proceedings; but the defendant, if not disposed to try the cause before the County Court, ought to be permitted to try in the superior court, without assigning any reason, on giving satisfactory proof that his objection is not for the purpose of delay. For this purpose he should be required to give, in the County Court, security for the amount claimed and costs in the superior court, or to make a deposit to the like amount, not exceeding in the whole 150*l.*, the costs in the Court below being treated as

costs in the cause. The plaint might then be transmitted to such one of the superior courts as the plaintiff should direct. If, however, the defendant do not declare his dissent and comply with the condition above mentioned, within such time as shall be fixed by the practice of the court, he must be taken to assent to the cause being tried by the County Court, and that tribunal may then dispose of the cause in the usual way.

This right of removal we intend to be in addition to the power to remove already existing by law in such cases.

Balance on allowance of set-off recoverable in County Court.

We are further of opinion, that if the sum claimed be a balance alleged to be due not exceeding 50*l.*, after making allowance for a set-off, if the claim and counter-claim do not respectively exceed 200*l.*, the case ought to be within the concurrent jurisdiction.

Where claim in superior court reduced to 50*l.* by set-off, &c. case may be referred to County Court.

We also think that the concurrent jurisdiction may be rendered beneficially available, by extending it to actions of malicious prosecution, and by enabling a judge, where in an action brought in the superior court, it appears that a sum not exceeding 50*l.* is claimed in an action of contract, or that the claim is reduced by set-off, payment, or otherwise to a sum not exceeding 50*l.*, to direct, on the application of either party, and on such terms as he shall think fit, that the cause shall be heard in a County Court.

Questions of title decided by consent

Our recommendations with reference to deciding questions of title by consent, where the amount in dispute does not exceed 20*l.*, extend to cases where the claim exceeds 20*l.*, and does not exceed 50*l.*

Jurisdiction by Consent.

Jurisdiction by consent.

Thirdly, with reference to the jurisdiction by consent (p. 3, 14.) This power was conferred on the court by the 17th section of the 13 & 14 Vict. c. 61.

Parties to be permitted to refer any question, within the jurisdiction of Courts of Common Law, except actions for criminal conversation.

The principle of the section now under consideration is to permit parties, if so inclined, to refer to the County Court Judge as to an arbitrator; and we are of opinion that the principle should be applicable not merely to the matters enumerated in the above section but should be extended to all questions, whether of law or fact, in which the courts of common law have jurisdiction, except claims for damages in respect of alleged criminal conversation. We think that claims of the latter description ought not to be made the subject of a proceeding by consent, as such a proceeding might be mischievously used, with the ulterior object of obtaining a divorce, in which the interests of the wife might in her absence be collusively sacrificed.

Mode of consent to be retained.

We think, however, that the provisions of the statute as to the mode in which the consent of parties is required to be given should continue.

Ejectment.

Ejectment.

We have already referred, in our statement of the jurisdiction, (p. 2,) to the power, with which, the County Court is invested, in certain cases, to restore possession of tenements where the annual rent *or* value does not exceed 50*l.*, and no fine has been paid.

This jurisdiction to be extended.

This jurisdiction has been found beneficial to the public, and, subject to some modification, might be usefully extended. We think that the County Court ought to have jurisdiction only in those cases where the amount of the annual rent *and* annual value do not exceed 50*l.* Unless such an alteration in the law be made, the jurisdiction would continue to embrace a class of cases which the legislature could not have intended to be decided in the County Court. Thus, in the case of land let on a building lease the reserved rent might not exceed 50*l.*, but the value of the houses erected upon it being of many thousand pounds' value, the annual value might far exceed 50*l.* We therefore recommend that where the annual value of the premises sought to be recovered exceeds the amount of 50*l.*, although the rent reserved does not exceed that amount, the case should not be within the jurisdiction of the County Court. With this alteration of the law, we think that this jurisdiction might be usefully extended to cases where one half year's rent is in arrear, and the landlord or lessor has right by law to re-enter for non-payment thereof, but no sufficient distress has been left on the premises, to countervail such rent; and also to the case of

mortgages where the money lent does not exceed 100*l.*, and the mortgagee is entitled to obtain possession. In the latter case, we think that the Judge should have power to postpone granting a warrant of possession for any period which the Judge might think fit, and should be invested with the same powers as might be exercised by the Court in pursuance of the First Common Law Procedure Act, s. 219. in actions of ejectment between mortgagee and mortgagor.

Notice of proceeding to be given by tenant to immediate landlord.

We think it also a desirable provision, that where a sub-tenant is served with a summons at the instance of the superior landlord, he should be bound to give notice to his immediate landlord, who should be entitled to come in and defend.

Claim for mesne profits may be joined.

We also think that it would be convenient that a claim for mesne profits not exceeding 50*l.* in amount should be allowed to be included in a plaint for the recovery of possession of the demised premises.

Judge's decision subject to appeal as in ordinary cases.

We are, however, of opinion that the finality of the judge's decision in cases of the above description should be modified, and that an appeal ought to be allowed where the annual rent and value of the premises or the mortgage debt exceeds 20*l.*

This mode of appeal to continue, besides cross action as at present.

It appears to us that this mode of appeal should be allowed in addition to that provided by sections 126 and 127 of the 9 & 10 Vict. c. 95. as stated at p. 16.

Replevin.

Replevin

The proceedings in replevin may in our opinion be materially improved by the introduction of certain alterations, which we shall proceed to state.

Present mode of proceeding defective.

Taking a distress, in order to secure a compensation for an alleged wrong, as it is a proceeding which is taken without the intervention of legal process, and dispossesses the owner of his property, should be subjected to as easy and prompt a revision as is practicable. The action of replevin when actually brought to trial may dispose of the question raised between the parties, as to the right to distrain; but the steps now necessary in order to bring that question before a competent tribunal are slow, inconvenient, and unsatisfactory (pp. 3, 15.) When the chattel has been seized, if the owner be desirous of contesting the lawfulness of the seizure, he must give the replevin bond to the Sheriff or his replevin clerk. To compel him to give this bond to the Sheriff himself, who has only one office in the county, would in many cases operate as a denial of justice. By law, the Sheriff is only bound to appoint four replevin clerks in each county, and the persons whose chattels are most likely to be distrained are not generally aware of the name or residence of those clerks. Consequently, in the majority of instances, the alleged aggrieved party submits to the distress, or travels with his sureties to the county town in order to give the usual bond. In the former case, the chattels may be sold at considerable loss or an oppressive arrangement be made for the surrender of them; in the latter, the replevisor may be compelled to take a long and expensive journey with his sureties. Again, although the replevisor be desirous of trying his cause in the Superior Court, he is obliged to give the bond to prosecute his suit in the County Court, and afterwards to remove it by certiorari from the latter court, after complying with the conditions imposed by the statute. Again, if the replevisor be desirous of obtaining possession of his chattel, and prefers depositing money to giving security, he is not permitted so to do. The same observation as to not being allowed to deposit money applies to cases of removal in conformity with the provisions of the statute. Again, the decision of the County Court Judge on questions of law in those cases, where neither party removes, although the rent or damage exceeds the sum of 20*l.*, is not subject to appeal.

Amendments suggested.

To remove these objections, we recommend, first, that the clerk of the County Court should be the sole replevin clerk in each district, and perform all the duties of that officer. Secondly, that the replevisor should be permitted, instead of giving security, to pay into the hands of the clerk a sum proportioned to the amount of the rent claimed or the damage alleged to have been done, such sum in case of dispute to be settled by the clerk, together with a certain sum for costs. Thirdly, that a similar substitution of payment of money instead of giving security under the statute should be permitted when

the plaint is removed. Fourthly, that the replevisor, if desirous of trying the cause in the Superior Court, should, on making a declaration similar to the statutory one, be permitted to give security, or pay money into the hands of the clerk; and that on such security being given or payment made, the chattel should be delivered to the replevisor, and the action of replevin be at once commenced in the Superior Court. Fifthly, that if the replevisor be desirous of proceeding in the County Court, the practice as to removal now prevailing under the statute should continue, but modified by the right to deposit money instead of giving security. Sixthly, that where the cause is not removed by either party, the decision of the judge on questions of law should be subject to appeal in the same manner as on ordinary claims, in cases where the rent or damages exceed 20*l.*

In other respects practice to remain.

Except so far as the suggested alterations extend, we think that the present practice in replevin should continue unaltered.

Interpleader.

Interpleader.

Jurisdiction by interpleader generally; vested in County Court.

The County Court has at present jurisdiction in cases of interpleader, arising out of claims made on chattels taken in execution, but has no jurisdiction in other cases, where interpleader is allowed in the superior courts.

We are of opinion that such a jurisdiction should be conferred on the County Court, and that wherever interpleader would be permitted in the superior courts of law, the suitors in the County Court should be allowed a similar privilege.

But subject to appeal even in case of goods taken in execution.

We think that, in the cases last mentioned and in those where claims are made on goods taken in execution, the decision of the County Court judge ought to be subject to appeal, in the same manner and on the same grounds as in ordinary claims exceeding 20*l.*

Where second action in superior court, jurisdiction of County Court not to be ousted.

Where, in cases of interpleader, the second action is brought or threatened in the superior tribunal, we think that the right to interplead ought still to be reserved to the defendant in the County Court. In the event of an issue being directed by the judge of the County Court, he might select that tribunal to dispose of it which appeared to him most convenient for the purpose. Should a proper case be shown for altering the tribunal, before which the case was so directed to be tried, a judge of the superior court might be enabled to interfere.

Acknowledgments by married women.

Acknowledgments by married women to be taken in County Court.

We think also that it would be desirable to enable the judges of the County Courts to take the acknowledgments of married women, in pursuance of the 3 & 4 W. 4. c. 74.

Secondly, with reference to additional securities for the due exercise of the jurisdiction.

Should additional securities for due exercise of jurisdiction be introduced?

We will consider, first, proceedings for the removal of causes; secondly, prohibitions; thirdly, appeals.

Certiorari.

Certiorari

First, as to the writ of certiorari. The County Court being a court of record, the mode of removing its proceedings is by certiorari. By the provisions of section 90 of the 9 & 10 Vict. c. 95, no case can be removed from the County Court where the claim does not exceed 5*l* ; and then only by leave of a judge of the superior court, on such terms as he thinks fit, if he be of opinion that it is a proper case to be tried in the superior court. By s. 16. of the 13 & 14 Vict., c. 61, removal by writ of error is prohibited.

May be granted in claims not exceeding 5*l.* on special grounds.

As a general rule, the amount of the claim is a convenient test of the importance of the question to be determined, and therefore it is generally desirable that where a claim does not exceed 5*l.*, the cause should be irremovable. But it occasionally happens that questions of great difficulty, both of law and fact, arise in

cases where the amount in dispute does not exceed 5*l.* Thus, questions of fact occur, where the claims belong to a class, each of which, individually is of less amount than 5*l.*, but which being questions of fact, cannot, as the law now stands, be raised before a superior tribunal. Thus, in actions by several workmen against a contractor, or by several passengers on a railway, or by several customers of a common carrier, where in each case the demand does not exceed 5*l.*, although the question is of considerable importance, and in effect brings into litigation an aggregate amount far beyond 5*l.*, no means exist at present of removing such actions into the superior court. Again difficult questions of law other than those which are excluded from the jurisdiction of the court may arise, or such questions may be so mixed with questions of fact as not to be conveniently separated, and yet the amount in dispute may not exceed 5*l.*

But on giving security making deposit.

We therefore recommend that where a claim, whether in tort or contract, does not exceed 5*l.*, it shall be competent for the defendant to remove the plaint into one of the superior courts by leave of a judge of those courts; but only on giving security for the claim and costs in the superior court, not exceeding 100*l.*, or on depositing that amount, and on such other terms as the judge may think proper to impose.

In larger claims.

As before observed, it is competent for a defendant to remove a plaint for a sum exceeding 5*l.* and not exceeding 50*l.* from the County Court by permission of a judge of the superior court, on such terms as he shall think fit.

Security or deposit required.

We are of opinion that in such cases the law should remain unaltered, except that the judge should further be empowered to make the costs of the proceedings in the County Court, which, under the present law, are lost to the party, costs in the cause.

Proper checks on vexatious removals.

While, however, we recommend greater facilities than now by law exist, for removing causes from the County Court, we are anxious that such facility should not be used for the purpose of vexation or oppression.

Applications for certiorari may at present be repeated,

By law, if one of the Superior Courts, or a judge thereof, refuse a writ of certiorari, it is competent for the applicant to renew his application in either of the other two courts, and in the event of a second refusal, he may apply to the third court. This state of the law appears to us inconvenient.

One application only should be made.

We recommend, therefore, that where an application is made for a writ of certiorari to one court or to one judge for the purpose of removing a plaint from the County Court, and the application is contested, the refusal by that court or judge, subject in the latter case to the usual appeal to the court, should be binding in the matter, and that no further application should be permitted to any other of the Superior Courts on the same grounds.

When obtained writ may be used vexatiously.

In several cases also, parties have, by their mode of proceeding when the writ of certiorari has been obtained, rendered it a medium of harassing their opponents. Thus, a defendant has waited until a plaintiff has incurred all the expenses of preparing for trial, and when the cause was called on, has produced a writ of certiorari to remove the proceedings. The plaintiff under such circumstances has no remedy for his costs, as, by the operation of the writ, the parties have ceased to be suitors of the court.

Notice of obtaining writ to be given on pain of costs by order of County Court Judge.

We further recommend that in all cases where a certiorari has been obtained *ex parte* for the removal of a plaint from the County Court, and the party obtaining it has not lodged the writ with the clerk of the County Court two clear days at the least before the day fixed for hearing the plaint, and if he has not given notice to the plaintiff of such certiorari having been obtained one clear day at the least before the day fixed for hearing the plaint, the judge of the County Court ought to be empowered at his discretion to order the party obtaining the certiorari to pay all the costs of the day, or so much thereof as he shall think fit, if the court or judge granting the certiorari has made no order respecting such costs.

We think that a court or judge to whom an application is made for a certiorari to remove a plaint from a County Court, or to whom application on affidavit is made for a rule or summons to shew cause why a certiorari should not issue, ought to be empowered in either case to grant a rule or summons to show cause why a certiorari should not issue; and that such rule or summons if so directed should be a stay of proceedings, until the determination of such rule or summons, or until the court or judge shall otherwise order; and that the party applying should serve a copy of such rule or summons upon the Clerk of the County Court, and if such copy be not served upon the Clerk of the County Court two clear days at the least before the day fixed for hearing the plaint, and if the rule or summons be not served on the plaintiff one clear day at the least before the day fixed for hearing the plaint, the Judge of the County Court should be empowered at his discretion to order the party applying to pay all the costs of the day, or so much thereof as he may think fit, unless the court or judge granting the rule or summons has made some order respecting such costs.

Application in certain cases a stay of proceedings.

Prohibition.

Secondly, with respect to the writ of prohibition.

Prohibition.

The remarks we have made concerning the writ of certiorari are applicable to the writ of prohibition, which may, in the hands of evil-disposed persons, be rendered equally oppressive.

Should be subject to same restrictions as certiorari.

We recommend, therefore, that restrictions similar to those which we think desirable in the case of writs of certiorari, except as to deposit of, or security for costs, should, so far as they are applicable, be imposed on writs of prohibition.

We further recommend, with regard to the writ of prohibition, that where it is directed to the Judge of the County Court, the decision of the Superior Court should be final, and that no declaration or further proceedings in prohibition be allowed.

Appeal.

Appeal.

Thirdly; as to appeal. This may be either on questions of law, or questions of fact.

On questions of law.

First, as to questions of law.

Decisions of judges of superior court subject to appeal.

In treating this branch of the subject, we are naturally led to consider the general principle of all tribunals, with reference to the power of reviewing the decision of the presiding judge. As a general rule, the decision of every judge of the superior courts is liable to be reviewed by some higher judicial authority. Upon the beneficial influence of such a rule, it is unnecessary to enlarge.

In claims not exceeding 20*l.*

In causes peculiarly within the jurisdiction of the County Courts, however, one important object sought to be attained is finality, with which a right to appeal would injuriously interfere.

No appeal should be allowed.

We think, therefore, that it would be contrary to sound principle to allow an appeal either on questions of law or fact, when the matter in dispute does not exceed 20*l.* in amount. If any difficult question of law be likely to arise in a cause of the amount we have mentioned, the facilities for removal already existing or which we have recommended, would prevent a failure of justice; and with respect to unexpected difficulties arising at the trial, they must be exceptional, and should not interfere with the general principle of the jurisdiction.

In other cases right of appeal should remain as at present.

With respect to claims which exceed the amount of 20*l.* but do not exceed 50*l.*, and cases within the consent clause of the Extending Act, a right of appeal exists, and we are of opinion that no change should be made in the law in that respect.

Similar power of appeal in other cases within the legal jurisdiction

We also think that the power of appeal should exist in all claims exceeding 20*l.* within the legal jurisdiction of the court, including that branch which has lately been conferred in matters of revenue.

Appeal on questions of fact mischievous.

Secondly; as to appeals on questions of fact.

With respect to those questions, we are of opinion that, whether under the exclusive, concurrent, or consent jurisdiction, they ought not to be allowed.

In cases within the exclusive jurisdiction, they would be extremely mischievous, as tending to promote litigation and increase expense.

In cases within the two other branches of the jurisdiction, as the judge only acquires power to decide the case by the consent of the parties, his determination is similar to the award of an arbitrator, and on questions of fact ought to be equally final.

Further suggestions on the subject of appeal may be found under certain specific heads of jurisdiction, which are the subjects of this report.

Mandamus.

Mandamus.

In cases where it is necessary to interfere by issuing a mandamus to a judge or any other officer of a County Court, in order to compel him to perform some specific act, we think it desirable that the superior courts of common law should have power, instead of issuing a mandamus, to grant a rule for that purpose, and on the same principle that we have stated in proceedings by certiorari or prohibition, in order to prevent vexatious proceedings on the part of those who desire the interference of the superior court, the complainant should be limited to an application to one court for the purpose in question.

JUDGES, OFFICERS, AND ADVOCATES.

Judges, officers, and advocates.

We shall now proceed to consider whether the present law with reference to the judges, officers, and advocates of the court can be beneficially altered.

Judge.

Judge, Circuit.

First, with reference to the judges.

It has already been stated that among the duties devolving on the judge is, that of going once in every month round the circuit to which he has been appointed. It has been suggested, that it is not desirable that a judge should thus continuously go the same circuit, but that in conformity with the general practice of the superior courts, he should go a different circuit every month.

Should not change circuit.

We have considered the reasons urged for making the proposed alteration, and we are not prepared to recommend any change in the law on the subject.

As to abolition or distribution of courts.

It is proper here to observe that complaints have been made of the present distribution of the districts among the different circuits. It has also been suggested that several of the existing courts might properly be abolished on account of the small amount of business transacted in them.

In order to dispose of the former subject, it will be necessary to determine on the proper course to be pursued in the latter.

No suggestion made.

As we have not yet been able to obtain all the information on these subjects which we think requisite, we propose to reserve them for future inquiry.

Power of judge to change venue in certain cases.

At present, the judge has no power to change the venue to an adjoining district, when, on reasonable grounds, it appears to him that the cause might be more conveniently or more fairly tried there. The want of this power has been productive of complaints. We think that it would be beneficial that the judge should have power to change the venue to an adjoining district on the application of either party.

We think also, that when the Judge is interested in the matter of the suit, it would be convenient to allow him to change the venue in a similar manner, of

his own accord, or at the instance of either party, or that the person having a claim on him should be enabled to sue in an adjoining district.

Qualification of deputy judge to be the same as that of judge.

With respect to the appointment of a deputy by a judge, the qualification required of the proposed deputy is not in all cases as we have seen (p. 6), the same as that required for a judge.

We are of opinion that as the duties which the deputy, except in matters of charity, is called upon to perform, are the same as those of the judge himself, and as he is invested with the same powers, and the same effect is attributed to his decisions, the same qualification ought to be requisite for a deputy judge as the law now requires for the judge himself.

In case of judge's death deputy to continue to act until new appointment.

When a deputy has been duly appointed, it has occurred, that the judge dies, and the deputy continues to act in ignorance of the death. By law the acts performed by him after the death of the judge are invalid, and in such cases, great confusion has been and may be hereafter the result.

In order to obviate this inconvenience, we recommend that under such circumstances the acts of the deputy shall be valid, notwithstanding the death of the judge, and that in order to prevent the delay of the proceedings of the court, the deputy may continue to act until a successor to such judge shall be appointed, unless the Chancellor shall otherwise order; and that in respect of the period that he acts after the death of the judge, he should receive such remuneration as the Chancellor shall appoint, to be deducted from the salary of the successor.

In case of judge's death proceedings to continue from court to court.

It has also occurred, in consequence of the death of a judge, that considerable delay, expense, and confusion have resulted to the parties litigant; as, in such cases, the proceedings are not continued to a subsequent court.

We recommend, therefore, that in such cases the proceedings should be continued to the next and any subsequent court in the same manner as if they had been adjourned in the ordinary way, and that no additional fees should be paid in respect of such adjournment.

The same where judge unavoidably absent.

Similar inconveniences result where a court is not held in consequence of the sudden illness of the judge, or of some accidental circumstance which prevents his attendance.

To obviate the inconvenience thence resulting, we make a similar recommendation. In the latter case, however, we recommend that the clerk should be required to enter on the minutes of the next succeeding court the cause of the judge's non-attendance.

Not more than 150 summonses ought to be made returnable on any one day.

We think it right to observe that our attention has been drawn to a prejudicial practice which exists in a few Courts of issuing a greater number of summonses returnable on one day than can be disposed of in a satisfactory manner in that period. In some instances more than 300 summons have been made returnable on one day. This is obviously improper, and we are of opinion that the greatest number of summonses returnable on any one day ought not to exceed 150. We also think that it would be a great relief to suitors if no greater number than 50 summonses were made returnable at any one hour.

Clerk.

Clerk.

Secondly, with reference to the clerk.

Recommendations in the case of clerk's death.

When a clerk dies or is removed, the power of his deputy or his assistant clerk ceases. Some time may elapse before a successor is appointed, but until then the business of the office is stopped, and great inconvenience accrues to the public.

To prevent this inconvenience, we recommend that, in either of the events stated, the deputy or one of the assistant clerks, or a clerk temporarily appointed by the judge without the sanction of the Chancellor, should perform the duties of such deceased or removed clerk, until a successor is duly appointed.

We shall defer the consideration of the mode of remunerating the clerks until we have disposed of the question of fees.

Chief clerk to be appointed to each district.

In connexion with this part of our inquiries, it is proper to refer to an objection which has been made to the present system which we have at p. 7 stated, of one person holding the office of clerk in more than one district. The Legislature has by the provisions of 15 & 16 Vict. c. 54. s. 17. prohibited such a practice for the future, except under special circumstances. The information which we have been enabled to procure upon the subject shows the propriety of that provision.

We are therefore of opinion that arrangements should be made to secure to each court the exertions of a chief clerk.

High Bailiff.

High bailiff.

Secondly, with reference to the high bailiff.

Similar recommendations in the case of high bailiff.

Where the high bailiff dies or is removed, observations similar to those made in the case of the clerks are applicable.

In such cases, we recommend that the duties of high bailiff be discharged by the assistant bailiffs already appointed, or by persons to be appointed by the judge or by the clerk, until a successor be duly appointed.

High Bailiffs not to serve subpœnas.

With respect to one portion of the duties now discharged by the high bailiff, that of serving subpœnas; we think that he should be relieved from the performance of that duty, and that the parties requiring the attendance of witnesses should be permitted to subpœna them. At present the number of subpœnas issued is comparatively very small, and therefore but little loss of fees would accrue in consequence of the alteration. Besides, the duty of making a tender of necessary expenses and of fulfilling the other conditions necessary to compel attendance would be more conveniently performed by the parties themselves. We think also that the subpœna should be issued gratis in blank. These recommendations would in many cases obviate the necessity of a second attendance at the office, as the subpœnas would then be taken out at the same time that the instructions for the plaint are given.

Bailiff to act beyond limits of district in certain cases without leave of judge.

By the present law, a high bailiff can only serve process within the district for which he is appointed, unless a special order of the judge be made for that purpose. This in some instances has been found productive of inconvenience, where the precise boundary with reference to the defendant's residence is doubtful. The same inconvenience arises in executing process against the goods or person. In the latter cases, the party liable frequently removes his person or his property over the boundary, and thus sets the process of the court at defiance.

We think it desirable that the high bailiff of each district should be permitted, without leave of the judge, to serve or execute the process of the court, either upon or against the person or the goods of the party liable, within five hundred yards of the boundary of such district, but without being entitled to any additional fee in respect of the greater distance travelled for the purpose of such service or execution.

We shall hereafter consider, in connexion with the question of fees, the mode in which the high bailiff should be remunerated

PROCEDURE.

Procedure.

We shall now consider the procedure in the County Court. It appears to us, that some alterations are necessary in order to render its proceedings more efficient.

Witnesses.

Witnesses in custody to be brought up on judge's order.

We are of opinion that the judge of the County Court should have power to issue an order commanding those who have the custody of prisoners, required as witnesses, whether within his district or not, to bring them up before the court, on tender, to the person having the proposed witness in custody, of a proper sum to defray the expenses of the officer and prisoner going, remaining, and returning.

Amendment.

Powers of amendment under the Common Law Procedure Act to be extended to County Court.

We think that the provisions of "The Common Law Procedure Act, 1852," with respect to amendments, might with benefit be introduced into the County Court.

Judgment.

Effect of County Court judgment not exceeding 20*l.* in amount.

First, as to the effect to be given to a judgment of the County Court. By law it is competent, where a judgment not exceeding 20*l.* has been recovered, for the judgment creditor to seize all the personalty of the defendant, with certain exceptions, and by proceeding on a judgment summons the defendant may in certain cases be committed to prison for a period not exceeding forty days.

To have no greater effect than at present.

We do not propose that any greater effect than the law now permits should be given to a judgment for that amount.

Land should not be extendible under it.

It has been suggested that the high bailiff should have power to seize the land of the defendant under a warrant on such a judgment; but we are of opinion that it is not desirable that such a power should exist. First, it is not probable that a person who is unable to pay a sum not exceeding 20*l.* should have any land which would be extendible under an elegit; and secondly, if he have, the consequence would be that a charge would be created upon the land, and thus a very inconvenient clog upon the title would be the result. We do not therefore think it desirable to facilitate the creation of such a charge.

Effect of judgment exceeding 20*l.* should on certain conditions be the same as that of judgment of like amount in superior courts.

With relation, however, to judgments for sums exceeding 20*l.*, we think, first, that the power of the judge to direct payment by instalments without the consent of the plaintiff should cease. Secondly, that upon a judge of a superior court at Westminster being satisfied that the judgment debtor has no personalty which can be taken to satisfy the judgment, the judgment creditor should be permitted to sue out a writ of certiorari to remove such judgment into one of the superior courts, and such judgment, when so removed, should have the same effect, and the same proceedings might be had thereon, as on a judgment of such court, except that no action of debt should be brought thereon without leave of the court or a judge thereof.

Warrant.

Execution or summons for commitment

By the present practice, warrants of execution, or summonses for commitment, cannot issue where more than a year has elapsed since judgment was pronounced, without leave of the judge.

To issue any time within six years.

By analogy to the altered practice of the superior courts, we think it desirable that in such cases, if the judgment be not more than six years old, the warrant or summons should issue without leave of the judge.

Warrants of execution or for commitment

By the present practice a warrant of execution or for commitment continues in force for three months only. It frequently occurs that, within the three months,

the bailiff is unable to seize the goods or take the person of the party against whom a warrant has been issued, although, if a longer period were allowed for the purpose, he might obey the warrant. This necessitates frequent renewals of the warrant, producing inconvenience and expense.

To be in force for a year.

We therefore recommend that the warrant should be in force for one year, but that at the expiration of every calendar month the bailiff should be required to enter in a book kept for that purpose whether the warrant had been executed, and if not, why not; and that this book should be always open to inspection without fee; and that in the case of foreign executions, the bailiff of the Foreign Court should be required to make a similar entry.

Executions.

Questions have arisen as to the mode of determining the priority of executions when sued out of the County Court.

Priority of executions from County Court inter se.

We think that the priority of executions sued out of the County Court should be determined by the time at which an application is made to the clerk to sue out execution, and that he should be required to enter in a book to be kept for the purpose, the precise time at which such application was made. This provision is necessary, because the warrant is delivered to the bailiff by the clerk, and not by the party, as in the superior courts. The only effective step which a party can take for the purpose of suing out execution on his judgment is to direct the clerk to issue the warrant.

In conflict with executions from superior court.

Doubts have frequently arisen as to which execution is entitled to priority where executions have been issued against the same defendant from the superior court and the County Court. No express provision has at present been made upon this subject, and it is important that the question of priority between these conflicting executions should be settled.

To depend on priority of instructions to clerk or delivery to sheriff.

We think that the priority should be determined by the time of the delivery of the writ to the sheriff to be executed, or of the application to the clerk to issue a warrant to be executed, as the case may be.

Judgment Summons.

Judgment summonses to be issued in the home or foreign district

At present, a judgment summons must issue in the district within which a judgment debtor is resident, although the judgment may not have been pronounced in that district. This appears to be a hardship upon the successful party, but on the other hand the power to bring the defendant from one part of the kingdom to the other to answer his creditor might be used vexatiously.

At discretion of judge.

We therefore recommend, that where the defendant resides out of the district in which the judgment was obtained, it shall be competent for the judgment creditor, by leave of the judge, if he shall think fit to grant such leave, to summon the judgment debtor to the court in which the judgment was obtained.

Certificate under bankrupt, insolvent, or protection Act

By law, a certificate under the Bankrupt laws, a discharge under the Insolvent Act, or a protection under the Protection Acts, does not relieve any one from a commitment upon a judgment in the County Court.

To bar a judgment summons.

We are of opinion that as such proceedings would operate as a bar to proceedings in respect of all other debts, it is only just they should have a similar effect on a judgment in the County Court.

Prisons.

Prisoners.

With reference to the gaol to which defaulters may be committed, we think some alteration in the law may be beneficially made.

By the present law the defaulter must be committed to the county gaol, or to some other place of confinement sanctioned for that purpose by the Secretary of State. It sometimes occurs that the county gaol, or that authorized by

the Secretary of State, is much farther from the court than the gaol belonging to an adjoining county. Thus, Horsemonger Lane Gaol, which is in the county of Surrey, is but a short distance from the County Court of Kent at Greenwich, while the county gaol, which is at Maidstone, is more than thirty miles distant. Considerable expense and inconvenience are caused by conveying the defaulter so great a distance.

Should be sent to gaol nearest court

We recommend, therefore, that he should be committed to the gaol nearest to the court, whether it be situated in the county in which the court is held, or in a neighbouring county, but that in the latter case the prisoner should be supported at the expense of the county within which the court is held.

Judgment by Default.

Judgment by Default.

At present (as appears at p. 13), the practice of judgment by default, properly so called, does not exist in the County Court, but in the event of the defendant not appearing, on proof of proper service of the process, the cause is tried as undefended. The objection to this practice is, that it compels the plaintiff to prove his case at the hearing, instead of taking his judgment for the whole amount claimed, as in an action for the recovery of a debt in the superior court. This is, in a few instances, productive of some inconvenience to plaintiffs.

Not desirable in proceedings for claims not exceeding 20*l.*

But with respect to claims in amounts not exceeding 20*l.*, we do not think any ultimate advantage would be obtained by interfering with the present practice.

Desirable in larger amounts, and parties should be permitted to serve summons themselves.

With regard to sums above 20*l.*, where the claim is founded on contract, as the defendants are of the same class as those sued in the superior court, and as that jurisdiction is concurrent with that of the superior courts, we think that the practice of judgment by default might be beneficially introduced, provided that the service of the process be personal, and proper notice of the consequences of not appearing be given in the summons.

In these cases we think that the plaintiffs should be permitted to serve the summons without the intervention of the bailiff.

Conclusion.

Proceedings convenient.

In conclusion, we may observe that the proceedings and practice in the County Court appear to us to be convenient for the purpose of exercising the jurisdiction with which it is invested, as they are simple, prompt, and inexpensive.

Rules made by committee of County Court judges,

With regard to the body of rules already mentioned (p. 11), which was framed by a committee of County Court judges, and supervised by a chief justice and two other judges of the superior courts, under the authority of the 12 & 13 Vict. c. 101. s. 12., it appears to us that they have been useful, and have tended to secure uniformity in the practice of the County Courts.

Which are not strictly applicable to increased jurisdiction.

Since the above rules were framed, the jurisdiction of the County Courts has been extended to a variety of matters which are not specifically provided for by the practice, and therefore when it is sought to apply any practice with reference to those matters it can be at present only by analogy. This in many instances is found to be inconvenient.

Additional rules recommended.

We recommend, therefore, that additional rules should be framed, which shall be specifically applicable to the matters of extended jurisdiction, and that similar facilities of procedure similar to those existing in the superior courts, should be introduced into the County Court.

The power of making rules has been vested in a committee of County Court judges appointed by the Chancellor, in pursuance of the 15 & 16 Vict. c. 54. s. 1.

Continuance of powers of committee recommended for that purpose.

We think it desirable that the powers of that committee should be continued, subject to the same supervision as already provided by law. The effect of this will be to prevent in a great degree the differences of practice likely to arise in 500 co-ordinate courts, and to secure, as far as possible, conformity between the practice of those courts and that of the superior tribunals.

No additional charge will be brought upon the revenue by the continuance of the powers of the committee, as the judges of whom it consists act without remuneration.

Further scale of fees recommended.

We think that a scale of fees applicable to the matters not within the ordinary jurisdiction of the Court for the recovery of pecuniary demands should be established, in order that all persons availing themselves of the tribunal may contribute proportionately to its support so long as it is not maintained at the public expense.

FEES.

Fees.

We next proceed to consider the subject of fees.

We will inquire, first, whether the amount raised by fees paid in the County Courts can be levied in a manner less burthensome to the suitors, and, secondly, whether that amount can be properly reduced.

May be levied in a less burthensome manner.

First, we think that the amount of the fees now levied in the County Courts may be raised in a manner less burthensome to the suitors.

Before stating the alterations we propose with reference to fees, it is desirable to give a short statement of the origin of the present scale embraced in the first and second classes above mentioned (p. 18).

Origin of present scale.

By the 9 & 10 Vict. c. 95. s. 37. it was provided, that certain fees mentioned in Schedule D. to that Act should be taken for the benefit of the judges, clerks, and high bailiffs, irrespective of the general fund fee, which was established by section 52 of the same Act, and is applicable to different purposes. By section 37, a power was reserved to one of Her Majesty's Principal Secretaries of State, with the consent of the Commissioners of Her Majesty's Treasury, to alter but not to increase the fees mentioned in the schedule to the Act. A similar power was contained in s. 52. with reference to the general fund fee (p. 20). More extensive powers of altering the fees were afterwards conferred on the same authorities by the 12 & 13 Vict. c. 101. s. 6.

Complaints of former scale.

Soon after the establishment of the courts, many complaints were made by the suitors, both of the scale mentioned in the schedule and of the contribution to the general fund. The principal objections to the then existing scale were:

First, that the amount of fees, including the first and second classes, was excessive:

Secondly, that the language of the schedule was so vague that the officers were enabled to take more fees than the Legislature intended:

Thirdly, that as the amounts in respect of which the fees were to be taken, rose only by four steps, from 1*l.* to 20*l.*; the suitor who claimed 2*l.* 1*s.* was compelled to pay as much as he who claimed 5*l.*, and the suitor who claimed 10*l.* 1*s.* was compelled to pay as much as he who claimed 20*l.*

Reference to five County Court Judges.

In the year 1850, a Secretary of State and the Lords Commissioners of the Treasury, in consequence of these complaints, determined to exercise the powers with which they were invested under the 12 & 13 Vict. c. 101. sect. 6. and the 9 & 10 Vict. c. 95. s. 52., to alter the amount of fees taken in the County Courts, and the committee of County Court judges appointed by the Chancellor, in pursuance of the 12 & 13 Vict. c. 101. sect. 12., were requested to consider the matter, and to frame a scale of fees in conformity with their views, on the principle that, having regard to the average amount of the business in the courts, the fees, including the general fund fee, should produce a sufficient revenue to support the whole of the establishment and its incidents, with the exception of the salaries of the treasurers, which were by section 23 of 9 & 10 Vict. c. 95. expressly charged upon the consolidated fund.

No interference with the third, fourth, or fifth class of fees (p. 18) was suggested to the committee, and the law with respect to them remains unaltered.

As to the first objection, the committee proposed that the suitors should be relieved to the extent of one seventh of the total amount of the revenue produced by the Fees. It was suggested that by analogy to other taxes, a diminution in the amount of the fees would produce a corresponding increase of business, and consequent increase of revenue, and therefore that no permanent loss would result from the proposed reduction. The Government consented to undertake the risk of the non-productiveness of the court, and accordingly the committee were requested to frame a scale on the principle of such a reduction. The scale now in force was accordingly made, and came into full operation at the beginning of the year 1851.

Suitors relieved to the extent of one seventh of the annual revenue.

The anticipations of the committee were fulfilled. The revenue of 1850 was 252,000*l.* Assuming that the same amount of business continued in the courts, the revenue of 1851, after the diminution of one seventh, or 36,000*l.*, would have fallen to 216,000*l.* By the returns of the year 1851, however, it appears that the total revenue of that year was 272,000*l.* This increased productiveness cannot be attributed entirely to the principle suggested by the committee, as the sum of 36,000*l.* appears by the returns to have been produced by business resulting from the extended jurisdiction over claims not exceeding 50*l.*, which in the year 1851 came into force. Still, however, the remaining sum of 20,000*l.* beyond the anticipated 216,000*l.* was fairly attributable to the above-mentioned principle; and in the following year the revenue continued to increase.

Deficiency supplied.

In the formation of the scale, the committee abolished some fees, and reduced the amount of others, and with regard to the general fund, the fee of one shilling in the pound on claims exceeding forty shillings was reduced to eightpence. The exemption of sums not exceeding twenty shillings, and the fee of sixpence in the pound on sums not exceeding forty shillings, were left as by law provided.

General fund fee diminished.

The second objection, founded on the vague language of Schedule D., was removed by employing the language in which the present scale is expressed. From the inquiries we have been enabled to make, we have not discovered any reason for supposing that the intentions of the framers of the scale have not been fulfilled, as it does not appear that any other fees than those strictly sanctioned by the scale have been taken.

Scale made less vague.

The third objection, as to the sudden rises in the scale, with reference to the amounts of claims, was met by substituting a scale, in which the amounts of the suitors' respective claims were treated as the basis for calculating the fee according to an arithmetical progression, increasing by 1*l.* from the sum of 1*l.* to 20*l.* inclusive.

Progressive increase of fees; not beyond 20*l.*

It will be observed that in the above scale, the progression stops at 20*l.* If it continued beyond 20*l.* to claims as high as 50*l.*, the fees would have been so great as probably to exclude that class of business from the court, and so far prevent the revenue from recovering from the loss which the diminution of fees had caused.

Reasons.

The principles of the above scale, independent of the reduction of amounts, appear to be, that as the suitors were to be compelled to support the court by paying for the use of it, they should pay in proportion to that use, and as the court was peculiarly the poor man's court, the poorer suitors should pay less than the richer ones.

Principles of scale.

The answers to the inquiries we have made on this subject satisfy us that if the courts are to be rendered self-supporting, this scale is in principle correct, although certain fees, which are hereafter referred to, have been shown by more extended experience to be unnecessarily burthensome to the suitor.

Principle correct, but alterations in detail necessary.

We will now point out, how the scale in force, supposing the present amount of revenue to be required from the courts, may be rendered less burthensome to the suitors.

Fees may be levied in a less burthensome manner.

One of the most burthensome fees which a suitor is called upon to pay, is the mileage fee to the bailiff in respect of serving and executing the process of

Mileage on service and execution.

the court. As this fee is paid to the bailiff in respect of his greater labour in travelling to perform his duty, it is equally applicable to the lowest and the highest amount of claim. Such a fee, so far as the bailiff is concerned, is just; but so far as the suitor is affected, is unjust. It compels a plaintiff to pay more or less for the service of his process according to the accidental circumstance of the distance which his debtor resides from the court. The principle of local jurisdiction is, that in each district, so far as possible, every suitor should have his remedy brought to his own home. This is an object, however, which, though desirable, it is impossible completely to attain, but we think that a greater approximation to its attainment may be made than is effected by the present scale of fees.

Exchanged for fixed fee.

We recommend, that in all cases of service or execution of process at a distance from the court, the same fee should be paid, whatever that distance may be. This fee should be of such an amount as that, having regard to the average number of services and executions, a total equal to that at present raised should be secured. The high bailiff would then keep an account, in conformity with the mode of calculating distances now existing in the court, of the miles travelled, and, at the audit, the treasurer should pay over to him a proportionate sum. No danger of fraud upon the treasurer would exist, because, the books of the court disclosing the place of the defendant's residence, and the distance book of the court showing the number of miles to that residence, would afford a complete check. By this means, the burthen would be equally divided among all the suitors of the court, the bailiff would be compensated for his extra labour, and the principle of local administration of justice more completely enforced.

Of additional 1*d.* in the pound.

From the calculations we have made, it appears that, in lieu of the mileage fee, an additional penny in the pound on the sum claimed would produce the required amount. This will be little more than a nominal increase of fee to suitors, where the defendant resides near the court, but will be a most important relief of the burthen now imposed in other cases.

Mileage in case of prisoners.

Another fee to be found in the existing scale is that for conveying a defaulting party to prison, where he has been committed under the penal clauses of the 9 & 10 Vict. c. 95. The remarks which we have made with reference to the mileage fee, in the case of process, are equally applicable to this fee.

Exchanged for fixed fee.

We propose, on the same principle, that one fee should be substituted for the mileage fee in such cases, however distant the gaol may be from the court.

Of 1*s.* in the pound.

The calculations we have made lead us to the conclusion, that a fee of one shilling in the pound on the sum for which the warrant issues would produce the required amount. This alteration would have an effect similar to that produced by the proposed change in the service fee.

It will be seen that in hereafter considering how far the amount produced by the present fees should be reduced, we propose to abolish all mileage fees, and to remunerate the bailiff, in respect of the distance travelled by him in the performance of his duties, out of the produce of the fees proposed to be retained.

We have already made some observations and suggestions as to the more convenient gaols, with reference to distance, to which defaulters should be committed.

Possession fee;

The fee for keeping possession of goods taken in execution until the time of sale, we think also requires modification. It will be observed, that the poundage is, by the present scale, calculated on the amount for which the execution issues.

to be calculated on the value of goods seized.

We think that the fee for possession ought to be calculated only on the value of the goods actually seized, but not exceeding the amount mentioned in the warrant, such value to be ascertained and determined, if necessary, by the clerk. This is more consistent with the nature of a fee for possession having relation to value. In many instances, that which is taken into possession is of less value than the amount on which the fee is calculated. In such cases, whether the loss fall upon the plaintiff or the defendant, injustice is the result. In the majority of instances, however, the loss falls upon the plain-

tiff, as the fees are a prior charge upon the goods seized, and, consequently, the fruits of the execution are less capable of satisfying the plaintiff's demand.

Recovery of tenements.

The fee on proceedings for the recovery of tenements, we think also requires modification. At present, it is paid upon the annual rent or value of the tenement sought to be recovered.

Fee to be regulated by term of letting.

We think that the fee should be regulated by the rent or value for the term of demise, whatever that may be, not exceeding one year. Thus, if the premises are demised for a week, month, or other period less than a year, fees only in proportion to the amount of the rent or value for that term should be taken, such value to be determined if necessary by the clerk.

Replevin.

The fee payable on proceedings in replevin, we think should also be altered. At present, it is regulated by the amount distrained for, whereas, from the nature of replevin itself, which seeks to recover things distrained, the value of the things so distrained ought on the principle of poundage to regulate the amount of fees payable.

Fee to be calculated by value of goods

We recommend, therefore, that the fee in replevin should be payable in proportion to the value of the goods distrained, such value to be ascertained and determined, if necessary, by the clerk. This and the last-mentioned fee, we propose should be subject to the restriction mentioned in the scale with reference to 20*l.*

Jurisdiction by consent.

In cases of jurisdiction by consent, under section 17 of 13 & 14 Vict. c. 61. the fees are at present calculated on the sum of 50*l.*

Fees to be calculated on 20*l.* only.

We think that in claims where the parties may, by consent, give jurisdiction to the County Court, under the above section, the fees should not be calculated upon a greater amount than that of 20*l.* The number of cases under the consent clause, tried in the County Courts, has been exceedingly small, and, therefore, the diminution of revenue in consequence of lessening the fees in question must be almost nominal, and not sufficient therefore to justify an exception to the general rule, that the fees should not be calculated on a greater amount than 20*l.*

Appraisement fee;

The fees of the third class are those payable in respect of appraisements on executions under the 9 & 10 Vict. c. 95. Where an appraisement takes place on an execution, the appraiser is entitled to sixpence in the pound on the value of the goods for the appraisement of them, besides the stamp duty; and, in respect of advertisements, catalogues, sale and commission, and delivery of goods, one shilling in the pound on the net produce of the sale. A difference of opinion exists between some of the persons whom we have consulted, as to the propriety of continuing this fee; some are of opinion that appraisement is a useless form; others, that it is a useful and necessary check on the proceedings of the bailiff in enforcing executions.

to be continued, but appraisement conducted differently.

Our judgment is in favour of the latter opinion; but we think that the appraisement ought to be rendered more efficient by requiring the appraiser to affix a specific price to the different articles to be sold, instead of adopting the present mode, which is, in general, to put one total amount as the value of the whole property to be sold. By the mode which we propose, the practice of selling goods at a sacrifice would be checked, and friends or relatives might be willing to purchase, for the benefit of the defendant or his family, certain articles which are now involved in one common valuation. No difficulty would arise in compelling the persons who act as appraisers to perform their duty in the way suggested, as by law those who act in that character are appointed by the high bailiff, with the written sanction of the judge.

Distresses.

Next, with respect to the fourth class of fees, which are receivable by the bailiff, in respect of distresses made after notice of rent due, when executions are levied. By adopting the provisions of the 57 Geo. 3. c. 93., which now regulate those fees, injustice is done to the tenant where a small amount of rent is distrained for; and to the bailiff, where a large amount is claimed.

Fees to be calculated as on executions.

We think that the fees on distresses would be more properly calculated on the same scale as in executions. By adopting the principle applied in executions, the fee being proportionate to the amount, the objections we have stated would be obviated.

Alterations produce increase of revenue.

From the inquiries we have made, we are led to believe that the alterations we have suggested in the existing fees would be productive of an increase of the revenue produced by the courts.

Can amount of fees be reduced?

Secondly, whether the amount of fees can properly be reduced.

County Court should not be entirely self-supporting, but fees sufficient to pay clerks and hig.. bailiffs should be taken.

We now proceed to consider a question which is preliminary but essential to this branch of the inquiry, that is, whether the County Courts should be self-supporting. We are of opinion that they should not. To compel the suitors to pay fees sufficient to support the establishment appears to us unjust in principle, as, that which is for the benefit of the public should be supported by the public; but we fear that at present, financial reasons will render it impracticable to reduce the fees in strict conformity with the principle we have enunciated. We think, therefore, that the suitors should pay an amount of contribution sufficient to remunerate the clerks and high bailiffs of the court, and that all other expenses of the establishment, such as judges' salaries, buildings, stationery, and other matters, should be borne by the public revenue.

Proposed scale;

We have, prepared a scale relating to the first and second class of fees, which, assuming the present amount of business of the courts to continue, will produce a sum equal to the present amount of remuneration received by the officers we have mentioned.

adopts progression of existing one,

In the scale we propose, the general principle of the existing scale, so far as the gradual increase in proportion to the amount of demand is concerned, is adopted.

and abolishes or medifies certain fees;

The fees which we propose to abolish or modify are as follows:—

First, to abolish the general fund fee, which will have the effect of relieving the suitors to the extent of - -	£ 37,000	per	annum.
Secondly, to modify the hearing fee, where the parties consent to a judgment. At present, the fee payable on a judgment to which the defendant consents is the same in amount as that payable on a judgment where the claim has been disputed and the cause tried. We propose to reduce that fee from 2*s.* 3*d.* in the pound, the fee now paid, to 1*s.* in the pound on the amount of the claim. This would relieve such suitors to the amount of about - - - - -	18,000	,,	,,
Thirdly, to abolish the fees on payment of money into and out of court and on notice of payment into court, now producing the sum of about - - -	14,000	,,	,,
Fourthly, to discontinue the bailiff's mileage fee on serving and executing process. This fee produces about -	15,000	,,	,,
Fifthly, to discontinue the bailiff's mileage fee on conveying defaulting parties to prison. That fee now produces about - - - - - -	4,000	,,	,,
The bailiff, we propose, should be paid in proportion to the distance travelled by him in serving or executing process, or conveying committed parties, out of the fund which the remaining fees produce, in the manner already suggested.			
Sixthly, to abolish the fees on issuing a judgment-summons - - } which now produce about -	4,500	,,	,,
Fees on the hearing of the same ,, ,, -	4,500	,,	,,
Fees on new trials - - ,, ,, -	200	,,	,,
Fees on special defences - ,, ,,	500	,,	,,
Fees on adjournments, which now produce about -	1,200	,,	,,
Fees on subpœnas - - ,, ,, -	2,200	,,	,,
Fees on applications for leave to sue out of the district - ,, ,, -	2,000	,,	,,
Fees to the high bailiff for issuing warrant to the clerk of another court - - - ,, ,, -	700	,,	,,

Seventhly, we further recommend that the summons and service fees, together amounting to 8*d.* in the pound, should be reduced to 6*d.*, and the hearing and service of order fees, together amounting to 2*s.* 3*d.* in the pound, should be reduced to 2*s.* This will have the effect of diminishing the produce of these fees by about - - - - - - - 21,000 „ „

£124,800

The total of the sums produced annually by the fees which we propose to discontinue or reduce is rather less than one half of the present annual amount (253,518*l.*) levied on suitors.

and relieves suitors to extent of about one half of present revenue.

With the third and fourth classes of fees, which are received by the bailiffs and appraisers, we do not propose to interfere, except by the alterations already suggested.

But not interfere with Bailiffs' and appraisers' fees.

The fees in insolvency and protection cases are of a special and occasional nature, and therefore cannot conveniently be made part of a general scheme of fees of court. Besides, the duty performed by the officers are in many respects of a nature different from those devolving on them in other matters. When we consider the jurisdiction in Insolvency and Protection cases, it may probably be found desirable to modify the present scale necessary, and to define more strictly the fees to be taken.

Insolvency and Protection fees to remain as they are.

The payment of five shillings to the jury we propose should continue.

With the above suggested modifications and diminutions, the following will be the proposed

Table of Fees

To be taken in the County Courts established by 9 & 10 Vict. c. 95.

Table of Fees.

For every plaint,—Sixpence in the pound on the amount of the demand.

Notice.—No other fee whatever is to be taken on the entry of a plaint.

Judgments by consent under the 13 & 14 Vict. c. 61. ss. 8. and 9., and judgments by default,—One shilling in the pound on the amount of the demand.

For every hearing,—Two shillings in the pound on the amount of the demand.

Notice.—No other fee whatever is to be taken for the hearing or trial of a cause.

For issuing any warrant against the body or goods,—Eighteen-pence in the pound on the amount for which such warrant issues.

For application for new trial, or to set aside proceedings,—Sixpence in the pound on the amount of the demand.

Notice.—No other fees than the above to be taken, on any account whatever. No increase of fees shall be made by reason of there being more than one plaintiff or defendant.

High Bailiff's Fees.

For keeping possession of goods till sale, per day, (including expenses of removal, storeage of goods, and all other expenses whatever) not exceeding five days, sixpence in the pound on the value of the goods seized. [This, however, does not apply to cases of interpleader, in which the costs and expenses of possession are to be in each case specially allowed by the judge, but which shall in no case exceed the costs incurred by the bailiff in keeping possession.

N.B.—*In cases within the ordinary jurisdiction of the court, the above-mentioned poundage and fees are to be taken; but where the sum demanded is above twenty pounds, the poundage is to be taken on twenty pounds only.*

In all cases of jurisdiction conferred on the court in pursuance of the 13 *&* 14 *Vict. c.* 61. *s.* 17, *the poundage is to be calculated as upon the amount of* 20*l.*

All fractions of a pound, for the purpose of calculating the poundage, shall be treated as an entire pound.

Where the plaintiff recovers less than the amount of his claim, so as to reduce the scale of costs, the plaintiff to pay the difference.

The several fees payable on proceedings in replevin to be regulated on the above scale, by the value of the goods distrained, and on proceedings for the recovery of tenements, by the yearly, monthly, or weekly rent of the tenement, according to the letting or value of the tenement sought to be recovered; but in no case to exceed the fees payable on a demand of twenty pounds.

In cases of Interpleader, the summons shall be issued and the cause heard without the previous payment of any fees; but the costs of the summons and the poundage for the hearing shall be estimated on the value of the goods claimed, and shall be included in the general costs. The value of such goods, in case of dispute, shall be assessed by the judge, who in his discretion at the hearing shall direct whether any and what costs shall be paid, and by and to whom.

Subpœnas to be issued gratis, but must be served by the parties or their agents.

Mode of apportioning fees.

We propose, that the fees, or sums in the name of fees, mentioned in the above table, (with the exception of the fees called "High Bailiffs Fees,") shall form a fund out of which the clerks and high bailiffs of the courts shall be paid the salaries and allowances hereafter suggested.

Diminution recommended, though business of courts not increased.

For the reasons we have already stated, we recommend the suggested diminution in the amount to be raised by fees, even though the business of the County Courts should not be increased.

Experience renders deficit improbable.

Judging, however, from experience, an increase of business, producing an increase of revenue, would probably be the result. Thus, a deficiency of 36,000*l.* on a revenue of 252,000*l.*, or one seventh, was more than half supplied in 1851, in consequence, we have reason to believe, of the diminution in the amount of the fees and more just and convenient mode of collecting them.

The Extension Act, 13 & 14 Vict. c. 61., and the existing scale came into operation about the same time. An increase of revenue to the amount of 36,000*l.*, produced by cases under the extended jurisdiction, was the result. Since then, a variety of other Acts of Parliament have passed conferring new jurisdiction on the court, from which, as fees must be paid on the new business introduced into the court, a corresponding increase of revenue may be anticipated. The recommendations contained in our present report, if adopted, would also to a certain extent increase the jurisdiction, and we believe render the court a more efficient tribunal.

One advantage attending the scale we have last suggested would be the simplification of the accounts of the court. This would lead to some diminution in the expense of stationery, as well as considerable decrease in the labour of the clerks.

Remuneration of Clerks and High Bailiffs.

Remuneration of clerks and high bailiffs not sufficient.

We now proceed to another important branch of our inquiry, which is, as to the proper mode of remunerating the clerks and high bailiffs of the courts.

At present, although every clerk and high bailiff receives a certain amount of compensation for his services, yet in a very large majority of instances, such an amount of remuneration is not received as is calculated to secure the services of efficient officers.

Mode of remunerating clerks and high bailiffs.

This leads us to the consideration of a preliminary question which has been much discussed, as to whether the clerks and high bailiffs should be paid by fees only; by salary only; or partly by salary and partly by fees.

Clerks by salary, subject to periodical revision.

We have come to the conclusion that it would be desirable that the clerks should be paid by salaries, and that such salary should be subject to a periodical revision by the Treasury.

In the case of the high bailiff, however, the duties of his office are of so peculiar a description, and the efficient discharge of them so little under the immediate control of the Judge, that we think a strong interest in the complete performance of his duties ought to exist. We think, therefore, that besides his salary, he should be allowed such remuneration in respect of mileage and executions as, with reference to the circumstances of each district, the Lords Commissioners of Her Majesty's Treasury may from time to time direct.

High bailiffs in same manner, but also should have mileage and fees on executions and distresses.

First, with reference to the clerks.

Clerks.

We propose that the clerk of each court, in which the plaints entered do not exceed the number of 200 a year, should have a salary of 60*l.* per annum, and that in courts where the plaints exceed 200, the salaries should be increased by sums of 5*l.* for every twenty-five plaints, up to one thousand inclusive, and then by sums of 4*l.* for every twenty-five plaints up to six thousand inclusive; but in courts, where the plaints exceed that number, the amount of increased salary should be at the discretion of the Lords Commissioners of Her Majesty's Treasury. Out of the salaries so appointed, the clerk should be required to pay the salaries of the clerks he employs to assist him.

Principle of determining amount of salary.

With reference to those clerks, who as we have already stated (p. 7.) have been placed by the Government on salaries varying from 500*l.* to 600*l.*, we recommend that the principle above stated should only be applied in remunerating their successors.

Applicable to clerks now on salaries.

Secondly, with reference to the high bailiffs.

High Bailiffs.

We propose that their salaries should vary on the same principle as those of the clerks, but should only be one fourth of the amount to which the clerk is entitled. This, we think, is a suitable proportion to preserve between the salaries of the two officers, having regard to their respective duties, and taking into consideration that they are to be additionally remunerated for executing warrants and for mileage on the service of all process.

Principle of determining amount of salary.

The expenditure of the County Courts will, by the adoption of this scheme, be increased by about 30,000*l.* per annum beyond the present revenue.

Expense of courts consequently increased.

This scheme of salaries, we think, should be adopted whether the existing fees, modified as we suggested in the former part of our remarks on the subject of fees, continue to be taken, or the table mentioned in the second part be introduced into the County Courts.

Scheme recommended whatever scale of fees adopted.

The following table shows the effect of this scheme, by reference to the business done in the Courts during the year 1853.

Showing the Courts arranged according to the Number of Plaints entered in 1853, and the Salary proposed to be paid to the Clerk of each Court.						Total Amount required to pay proposed Salaries.	Amount produced by Fees in 1853.	Deficiency of Fees.	Surplus Fees.	Average Amount of Fees in each Court in 1853.
Courts.		Plaints.	Plaints.	Proposed Salary. £		£	£	£		£ s. d.
106	in which the Plaints entered were less than		200	which at 60 each =		6,360	3,103	3,257	—	29 5 0
In 1853 there were 23	in which the Plaints were	200	225	„ 65 „	=	1,495	985	510	—	42 6 0
21		225	250	„ 70 „	=	1,470	987	483	—	47 0 0
25		250	275	„ 75 „	=	1,875	1,159	716	—	46 7 0
18		275	300	„ 80 „	=	1,440	943	497	—	52 8 0
25		300	325	„ 85 „	=	2,125	1,407	718	—	56 5 0
23		325	350	„ 90 „	=	2,070	1,398	672	—	60 15 0
23		350	375	„ 95 „	=	2,185	1,445	740	—	62 16 0
17		375	400	„ 100 „	=	1,700	1,148	552	—	67 10 0
9		400	425	„ 105 „	=	945	718	227	—	79 15 0
7		425	450	„ 110 „	=	770	511	259	—	73 0 0
10		450	475	„ 115 „	=	1,150	835	315	—	83 10 0

Showing the Courts arranged according to the Number of Plaints entered in 1853, and the Salary proposed to be paid to the Clerk of each Court.

Courts.		Plaints.	Plaints.	Proposed Salary. £		Total Amount required to pay proposed Salaries.	Amount produced by Fees, in 1853.	Deficiency of Fees.	Surplus Fees.	Average Amount of Fees in each Court in 1853.		
						£	£	£	£	£	s.	d.
6		475	500	which at	120 each =	720	467	253	—	77	16	0
13		500	525	„	125 „ =	1,625	1,141	484	—	87	15	0
10		525	550	„	130 „ =	1,300	922	378	—	92	4	0
2		550	575	„	135 „ =	270	236	34	—	118	0	0
7		575	600	„	140 „ =	980	687	293	—	98	3	0
8		600	625	„	145 „ =	1,160	810	350	—	101	5	0
5		625	650	„	150 „ =	750	569	181	—	113	16	0
4		650	675	„	155 „ =	620	441	179	—	110	5	0
6		675	700	„	160 „ =	960	688	272	—	116	0	0
7		700	725	„	165 „ =	1,155	738	417	—	105	8	0
5		725	750	„	170 „ =	850	703	147	—	140	12	0
2		750	775	„	175 „ =	350	235	115	—	117	10	0
2		775	800	„	180 „ =	360	276	84	—	138	0	0
5		825	850	„	190 „ =	950	648	302	—	145	12	0
3		850	875	„	195 „ =	585	403	182	—	134	6	0
3		875	900	„	200 „ =	600	417	183	—	139	0	0
2		900	925	„	205 „ =	410	227	183	—	113	10	0
1		925	950	„	210 „ =	210	212	—	2	212	0	0
2		950	975	„	215 „ =	430	340	90	—	170	0	0
1		975	1,000	„	220 „ =	220	208	12	—	208	0	0
1		1,000	1,025	„	224 „ =	224	161	63	—	161	0	0
2		1,025	1,050	„	228 „ =	456	348	108	—	174	0	0
3		1,050	1,075	„	232 „ =	696	444	252	—	148	0	0
2		1,075	1,100	„	236 „ =	472	414	58	—	207	0	0
3		1,125	1,150	„	244 „ =	732	535	197	—	178	0	0
1		1,150	1,175	„	248 „ =	248	207	41	—	207	0	0
3		1,175	1,200	„	252 „ =	756	535	221	—	178	0	0
3		1,200	1,225	„	256 „ =	768	554	214	—	185	0	0
2		1,225	1,250	„	260 „ =	520	460	60	—	230	0	0
1		1,300	1,325	„	272 „ =	272	184	88	—	184	0	0
2		1,325	1,350	„	276 „ =	552	444	108	—	222	0	0
2		1,350	1,375	„	280 „ =	560	355	205	—	177	10	0
In 1853 there were 1	in which the Plaints were	1,375	1,400	„	284 „ =	284	236	48	—	236	0	0
3		1,400	1,425	„	288 „ =	864	685	179	—	228	0	0
1		1,425	1,450	„	292 „ =	292	238	54	—	238	0	0
1		1,450	1,475	„	296 „ =	296	257	39	—	257	0	0
1		1,475	1,500	„	300 „ =	300	249	51	—	249	0	0
1		1,550	1,575	„	312 „ =	312	335	—	23	335	0	0
1		1,625	1,650	„	324 „ =	324	305	19	—	305	0	0
3		1,675	1,700	„	332 „ =	996	785	211	—	261	0	0
2		1,700	1,725	„	336 „ =	672	572	100	—	286	0	0
1		1,750	1,775	„	344 „ =	344	254	90	—	254	0	0
1		1,800	1,825	„	352 „ =	352	305	47	—	305	0	0
3		1,825	1,850	„	356 „ =	1,068	850	218	—	283	0	0
1		1,850	1,875	„	360 „ =	360	250	110	—	250	0	0
1		2,000	2,025	„	384 „ =	384	315	69	—	315	0	0
1		2,025	2,050	„	388 „ =	388	357	31	—	357	0	0
3		2,075	2,100	„	396 „ =	1,188	986	202	—	329	0	0
2		2,100	2,125	„	400 „ =	800	679	121	—	339	0	0
1		2,125	2,150	„	404 „ =	404	363	41	—	363	0	0
1		2,200	2,225	„	416 „ =	416	341	75	—	341	0	0
1		2,250	2,275	„	424 „ =	424	360	64	—	360	0	0
1		2,275	2,300	„	428 „ =	428	431	—	3	431	0	0
1		2,400	2,425	„	448 „ =	448	457	—	9	457	0	0
1		2,475	2,500	„	460 „ =	460	329	131	—	329	0	0
1		2,600	2,625	„	480 „ =	480	432	48	—	432	0	0
1		2,625	2,650	„	484 „ =	484	437	47	—	437	0	0
1		2,650	2,675	„	488 „ =	488	343	145	—	343	0	0
2		2,700	2,725	„	496 „ =	992	663	329	—	331	0	0
1		2,850	2,875	„	520 „ =	520	616	—	96	616	0	0
1		2,925	2,950	„	532 „ =	532	472	60	—	472	0	0
1		3,050	3,075	„	552 „ =	552	483	69	—	483	0	0
1		3,250	3,275	„	584 „ =	584	411	173	—	411	0	0
1		3,325	3,350	„	596 „ =	596	607	—	11	607	0	0
1		3,550	3,575	„	632 „ =	632	748	—	116	748	0	0
1		3,675	3,700	„	652 „ =	652	477	175	—	477	0	0
1		3,900	3,925	„	688 „ =	688	401	287	—	401	0	0
1		3,925	3,950	„	692 „ =	692	594	98	—	594	0	0

Showing the Courts arranged according to the Number of Plaints entered in 1853, and the Salary proposed to be paid to the Clerk of each Court.							Toial Amount required to pay proposed Salaries.	Amount produced by Fees, in 1833.	Deficiency of Fees.	Surplus Fees.	Average Amount of Fees in each Court in 1853.		
Courts.		Plaints.		Plaints.	Proposed Salary. £		£	£	£	£	£	s.	d.
In 1853 there were	1 in which the Plaints were	4,200	and less than	4,225	which at 736	each =	736	624	112	—	624	0	0
	1	4,225		4,250	„ 740	„ =	740	697	43	—	697	0	0
	1	4,250		4,275	„ 744	„ =	744	607	137	—	607	0	0
	1	4,475		4,500	„ 780	„ =	780	761	19	—	761	0	0
	1	4,500		4,525	„ 784	„ =	784	563	221	—	563	0	0
	1	4,550		4,575	„ 792	„ =	792	967	—	175	967	0	0
	1	4,825		4,850	„ 836	„ =	836	724	112	—	724	0	0
	1	4,975		5,000	„ 860	„ =	850	816	44	—	816	0	0
	1	5,000		5,025	„ 864	„ =	864	503	361	—	503	0	0
	1	5,100		5,125	„ 880	„ =	880	747	133	—	747	0	0
	1	5,125		5,150	„ 884	„ =	884	1,041	—	157	1,041	0	0
	1	6,100		6,125	„ 1,020	„ =	1,020	847	173	—	847	0	0
	1	6,375		6,400	„ 1,020	„ =	1,020	1,309	—	289	1,309	0	0
	1	8,250		8,275	„ 1,020	„ =	1,020	1,237	—	217	1,237	0	0
	1	8,300		8,325	„ 1,020	„ =	1,020	1,304	—	284	1,304	0	0
	1	9,125		9,150	„ 1,020	„ =	1,020	1,314	—	294	1,314	0	0
	1	9,250		9,275	„ 1,020	„ =	1,020	1,501	—	481	1,501	0	0
	1	9,450		9,475	„ 1,020	„ =	1,020	1,876	—	856	1,876	0	0
	1	9,750		9,775	„ 1,020	„ =	1,020	1,154	—	134	1,154	0	0
	1	10,275		10,300	„ 1,020	„ =	1,020	1,729	—	709	1,729	0	0
	1	10,475		10,500	„ 1,020	„ =	1,020	1,622	—	602	1,622	0	0
	1	11,425		11,450	„ 1,020	„ =	1,020	2,438	—	1,418	2,438	0	0
	1	11,875		11,900	„ 1,020	„ =	1,020	1,990	—	970	1,990	0	0
	1	12,775		12,800	„ 1,020	„ =	1,020	1,688	—	668	1,688	0	0
	1	13,425		13,500	„ 1,020	„ =	1,020	2,431	—	1,411	2,431	0	0
	1	21,175		21,200	„ 1,020	„ =	1,020	2,986	—	1,966	2,986	0	0
	499						88,232	79,747	19,376	10,891*			

COSTS OF PROFESSIONAL ASSISTANCE.

Costs.

Before we proceed to state our opinions on the subject of costs, it may be proper here to refer to the provisions of the 15 & 16 Vict. c. 54. sec. 1.

No scale made under 15 & 16 Vict. c. 54. s. 1.

Previously to the passing of that statute, much discussion had taken place in both Houses of Parliament on the subject of costs to be allowed to legal practitioners in the County Courts. It was ultimately provided by that statute, that the Chancellor should be empowered to appoint five County Court judges to prepare scales of costs, both between party and party, and between attorney and client. Those scales were to be submitted to three judges of the superior courts, of which a chief was to be one, and when sanctioned by them, they were to regulate the costs to be taken in the County Courts. Five County Court judges were accordingly appointed, and they, after several communications and conferences on the subject, with several of the Law Societies and individual legal practitioners, prepared scales of costs in conformity with what appeared to them to be the intentions of the legislature. When submitted to the learned judges to whom these scales were referred, their lordships doubted whether the language of the statute was sufficiently explicit to enable them to dispose of the subject in a satisfactory manner. No amending Act was passed, and nothing further was done by the learned judges with reference to the scales. The law, therefore, on this subject, remains as above stated at p. 22.

It appears, from the statement on this subject at the page referred to, that in the County Courts, according to the present law, no costs are recoverable as

* The salaries of the accountants and writing clerks employed by the chief clerks of the courts disposing of above 6,000 plaints in the year would reduce this surplus by about 6,000*l*.

costs in the cause between party and party, except those which are specifically appointed in the statutes upon the subject; and that as between attorney and client, no provision, with one exception, is made with respect to costs.

Costs between party and party and attorney and client.

We propose to consider the question; first, with reference to costs between party and party; and, secondly, with reference to costs as between attorney and client.

Between party and party.

First, with reference to costs between party and party. That question may be treated, first, with respect to suits for sums not exceeding 20*l.*; secondly, for sums exceeding 20*l.* and not exceeding 50*l.*; thirdly, claims under the consent clause 13 & 14 Vict. c. 61. s. 17.

Claims not exceeding 20*l.*

First, with respect to suits for sums not exceeding 20*l.*

One of the objects which the legislature had in view in establishing the County Courts, was to secure for the poorer suitors a cheap tribunal, in which, they might state their own case before the judge, and obtain from him a prompt decision without the intervention of legal advisers. As a rule, in cases where the amount claimed is within the exclusive jurisdiction of the court, no professional assistance is required. The exceptions to this rule are few. To introduce the practice of allowing professional costs in all cases would be to alter a general rule for the sake of an exception. This appears to us impolitic. For a certain class of exceptional cases, the legislature has already provided in the section cited, by awarding a certain limited amount of costs to counsel and attorney, at the discretion of the judge.

Present scale to remain.

We think that it would be inexpedient to increase the number of exceptions or allow a greater amount of professional costs than the legislature already permits, or free the suitors, from the exercise of the judge's discretion, as to granting costs, in those exceptional cases. It may be, that the fees awarded by the statute are too small adequately to compensate legal practitioners in cases of real difficulty; but experience shows that the number of the cases belonging to this class, decided in the County Courts, is extremely small, and we do not think it wise to endanger an important principle of the tribunal for the sake of a few exceptional cases.

Claims between 20*l.* and 50*l.*

Secondly, where the claim exceeds 20*l.* but does not exceed 50*l.*

In these cases the County Court ceases to be exclusively a "Small Debts Court." It is then a court of jurisdiction concurrent with the superior courts.

The proceedings in the County Court, being simple, local, and rapid, of course cannot require the establishment of a scale of costs to the same amount as that existing in the superior courts. But such a scale should be allowed as would, where professional assistance is requisite, reasonably compensate the legal practitioner.

We therefore think, that an amount of costs higher than that which is now sanctioned by law, but limited to such an amount as would secure a reasonable compensation to the practitioner for his services in the County Court, should be allowed at the discretion of the judge.

Claims under consent jurisdiction.

Thirdly, with respect to claims within the consent jurisdiction under the 13 & 14 Vict. c. 61, s. 17.

In these claims we think the same principle as in cases within the concurrent jurisdiction ought to apply.

Between attorney and client.

Secondly, with regard to costs as between attorney and client.

We will consider this branch of the subject, under the same divisions as that of which we have already disposed.

Claims not exceeding 20*l.*

First, as to cases where the claim does not exceed 20*l.*

According to the construction which has been put upon section 91 of the 9 & 10 Vict. c. 95, it appears that an attorney who has conducted a proceeding in a County Court may recover from his client his costs for professional exertions out of court on the same scale as in the superior court, the fees mentioned in the above section being intended as a compensation for the mere act of appearing in court.

We are of opinion that where the claim does not exceed 20*l.*, it would be desirable, in conformity with the principle of treating these courts in such cases as the fitting tribunal for the recovery of small demands, without professional assistance, that no greater sum should be recoverable by the attorney from his client than the fees mentioned in the section, unless the client signs a memorandum to be attested by a witness other than the attorney, undertaking to pay costs on some scale, or for some amount, different from that provided by the statute.

No greater costs than by law allowed unless client sign an undertaking to pay greater amount.

Secondly, with respect to costs of this description, where the claim exceeds 20*l.*, but does not exceed 50*l.*:

Claims exceeding 20*l.* but not exceeding 50*l.*

There we think, on the principle already referred to, that an amount of costs, such as would reasonably compensate the practitioner, should be allowed.

Costs greater than allowed by law.

Thirdly, with respect to claims within the consent clause.

In those claims, we make the like recommendations as in the last class of cases.

Claims under consent jurisdiction. Like recommendations.

METROPOLITAN DISTRICTS.

We have already stated that, in order to establish the system of local administration of justice, the country has been divided into several districts, to each of which a County Court is attached. Among these districts, are several which may be considered as strictly metropolitan. Although they together embrace the Metropolis, exclusive of the City of London, they are treated for all purposes as foreign to each other. as much as if they were placed at opposite ends of the kingdom. This, in many cases, is productive of great inconvenience. The boundary line of a district is frequently and necessarily traced along the centre of a street, and each side of the street is, therefore, in a district foreign to the other. The exposition of the practice of the County Courts, which we have already given, with reference to applications, to sue out of the district, the transmission and return of process, the enforcement of warrants against the goods or body of the judgment debtor, will sufficiently show the justice of the complaints which suitors make of the present system in the above districts.

Metropolitan districts.

Inconvenient to treat them as mutually foreign.

One consequence of this system is peculiarly productive of injustice to creditors. By the present law, the plaintiff must, as a general rule, sue the debtor in the district of the latter. He is, therefore, frequently obliged, at great inconvenience, to go to a court at a considerable distance from his own place of business, for the purpose of taking out process, and afterwards proving his case. This state of the law is contrary to the general principle, that the debtor should find the creditor in order to pay him. Although, the application of this principle has been, in certain cases, modified, in order to promote the local administration of justice, yet where the debtor and creditor both reside in the same metropolis, the present law appears to have rather an opposite tendency. To the debtor also, the system is productive of an increased burden in consequence of the proceeding for the recovery of claims being thus rendered unnecessarily complicated.

Unjust to creditors

And burdensome to debtors.

To obviate the inconvenience consequent on such a state of the law, we propose, that where a plaintiff dwells or carries on business, or has employment in any of the districts of the Bloomsbury, Bow, Brompton, Clerkenwell, Lambeth, Marylebone, Shoreditch, Southwark, Westminster, or Whitechapel County Courts, he should have the option of suing the defendant in such district as the law at present permits, or in any of the districts wherein he so dwells, carries on business, or has employment; provided that the defendant dwells, carries on business, or has employment in some one of the said districts; and that for proceedings in the cause, all the metropolitan districts should be treated as the district of the court out of which the process issued.

Plaintiff should have option to sue in his own district.

By these means, a reasonable power to compel a debtor to attend at a court most convenient to his creditor would be secured, a considerable expense would be saved to the suitors, and the inconveniences resulting from each metropolitan district being treated as foreign to the other, would be obviated.

And the Metropolitan Districts treated as parts of one district.

LONDON SMALL DEBTS COURT.

London Small Debts Court

We have already stated at page 1, that the City of London is excepted from the operation of the statute establishing the County Courts. A court similar in its constitution to that of the County Court has by a local Act been established for the recovery of small debts within the limits of the City of London. The Judge and officers are appointed by the Corporation. This Court is surrounded by the districts of various County Courts, and is occasionally in communication with almost every County Court in England and Wales. It forms, however, no part of the County Court system, but is independant of it, and is regulated by its own rules of procedure. Great practical inconveniences to the suitors and officers both of that Court and of the County Courts are the result.

Should be assimilated to County Courts.

We therefore recommend that the Small Debts Court for the City of London should be assimilated to the County Courts.

LOCAL COURTS OF RECORD.

Local courts of record.

Among other subjects of inquiry, our attention has been directed to that of the numerous courts of record, established in different places throughout the country.

Proceedings in those Courts.

It appears from the Parliamentary returns, of 19th May 1835, and others, that the jurisdiction of those Courts extends to claims of different amounts, and that the mode of procedure is in a very large majority of them, similar to that which formerly existed in the superior courts antecedent to the passing of "The Common Law Procedure Act, 1852." In those instances, the same forms of pleading, and the same minute technicalities are preserved as existed previous to the passing of that Act. In some few courts, the mode of proceeding provided by the Act referred to has been introduced by Order in Council. The proceedings therefore, of those Courts are generally more expensive and more dilatory than in the superior Courts, and when brought into operation for the recovery of small sums is extremely burthensome to the suitor. These courts have a jurisdiction concurrent with that of the County Court. The effect of this state of the law is, that where a defendant is resident within the local jurisdiction, the plaintiff may sue him either in the County Court or in the Local Court of Record. In the former Court the proceedings are simple and inexpensive, in the latter complicated and costly. If the plaintiff exercise his option by suing in the latter court, the defendant is compelled to pay a heavy and disproportionate amount of costs. The ancient mode of proceeding is preserved in these courts, not for the benefit of the public, but for the profit of those who practise there, and who gain by the increased amount of costs incurred. It certainly is desirable that such an anomalous state of the law should not continue.

We think that the encouragement now held out to the practitioners in those courts by the amount of costs created by proceedings there, should be discontinued.

Principle of placing these Courts under restrictions already recognized by law.

By law, if an action be brought in the superior Court for a claim which is recoverable in the County Court, and for a less sum than 5*l.* or 20*l.*, according as the claim is founded on tort or contract, the plaintiff, as a general rule, is not entitled to costs, unless a Judge of the superior court certifies, that it was a proper case to be tried in the superior court. Now, it is not reasonable that these local courts of record should be placed on a higher footing than the superior courts. The principle of not permitting the local courts of record to entertain suits for the recovery of small sums and create costs, where, under similar circumstances, the plaintiff would not be allowed to recover costs in the superior courts, was recognised more than thirty-five years ago by the legislature, when the 58 Geo. 3. c. 30. was passed. By that Act it was provided, that in actions of trespass for assault and battery to be commenced in any court having jurisdiction to hold pleas in actions or suits to the amount of forty shillings other than the superior courts at Westminster, if the jury assessed the damages under forty shillings, the plaintiff should recover only the same amount of costs as damages. This

provision became necessary, as the different statutes previously passed on the subject of costs, except the statute of James the First, did not apply to inferior courts of record. The mischiefs, therefore, of onerous and vexatious litigation, which had to a certain extent been restrained by the statutes relating to the superior courts, continues in their most objectionable form in the inferior courts of record. It is not improbable, that if the state of the law on this subject had been drawn to the attention of the legislature, when the 9 & 10 Vict. c. 95. was in progress through Parliament, some provision would have been introduced to extend the operation of that Act to the inferior courts of record.

Courts to be assimilated to superior courts with relation to costs.

We therefore recommend that the same law should be adopted with reference both to the superior Courts at Westminster and to the inferior Courts of record. If, therefore, in any of those Courts a less sum than 5*l.* in tort or 20*l.* in contract be recovered, the plaintiff should be entitled to no costs, unless the judge of the court shall certify that it was a proper case to be tried there.

We humbly submit this our First Report to Your Majesty's Royal consideration.

JOHN ROMILLY. (L.S.)
WILLIAM ERLE. (L.S.)
CHARLES CROMPTON. (L.S.)
HENRY FITZROY. (L.S.)
HENRY S. KEATING. (L.S.)
JOHN HERBERT KOE. (L.S.)
A. S. DOWLING. (L.S.)
J. PITT TAYLOR, I approve of this Report subject to the observations contained in the annexed paper. (L. S.)
J. R. MULLINGS. (L.S.)

Dated the 31*st March* 1855.

OBSERVATIONS BY MR. J. PITT TAYLOR.

On the following points I have the misfortune to differ from the majority of the Commissioners.

At p. 27 of the principal report, the following passage occurs:—

"We think, however, that the provisions of the statute" (13 & 14 Vict. c. 61. § 17) "as to the mode in which the consent of parties is required to be "given should continue."

Jurisdiction by consent.

From this recommendation I dissent. Under the statute, the consent necessary to confer jurisdiction on the County Courts in matters beyond their ordinary jurisdiction, must be drawn up in the shape of a memorandum, to be signed by both parties or by their attorneys, prior to the commencement of the action.

I regard this mode of conferring jurisdiction on the County Courts as illusory. It has been tried now for nearly five years, and has proved an utter failure.

The reason is obvious. A man who is about to submit his dispute with another party to a Court of Justice, is not often in a frame of mind which is calculated to lead him, on the one hand, to offer to his adversary any amicable proposal for settling their mutual differences in any particular mode, or, on the other, to entertain any such proposal should it emanate from his adversary.

The legal advisers are little likely to agree in recommending any course of proceeding which, in relieving their respective clients from the heavy costs of the Superior Courts, would proportionately be injurious to their own personal interests. To require the *active* consent of both parties under these circumstances is, in my judgment, an object that cannot be attained; and all that can reasonably be expected or required is, that the County Court should not have jurisdiction unless the parties *passively* consent.

I submit, therefore, that the present mode of conferring jurisdiction on the County Courts by consent ought to be abrogated, and that in lieu thereof those Courts ought to be empowered to determine all legal disputes of whatever nature or amount, excepting actions for criminal conversation, provided that neither of the litigating parties raises any objection to such jurisdiction.

The plaintiff, of course, will not have recourse to the County Court unless he prefers that tribunal to the Courts of Westminster Hall; and in order to afford ample opportunity to the defendant of objecting to the jurisdiction, I propose that the summons in every case, which is beyond the ordinary jurisdiction of the Court, should be personally served, and should, moreover, contain a distinct notice that the defendant has a right to object to the jurisdiction of the County Court, and to have the cause tried in such one of the Superior Courts as he thinks fit to specify, on giving a written notice to that effect to the clerk of the County Court within a certain number of days after service.

The clerk, on the receipt of such a notice, should be required forthwith to transmit the proceedings to the Superior Court specified, and the entry of the plaint in the County Court should be regarded for all purposes as the commencement of the action. The Clerk should also send notice to the plaintiff of the defendant's objection.

To this plan I have heard only two objections raised.* The first is, that the defendant might not read the summons, and consequently might not be aware of his power to remove the proceedings.

I confess that I am not much struck with the weight of this objection. If there be anything in it, the practice of judgment by default, which prevails in the Superior Courts, must be of the essence of injustice. In the one case, the carelessness of the defendant may subject him to the evil of having judgment pronounced against him in a County Court, after trial; in the other, it will

* The objections and arguments, which I have attempted to combat, are such as have come to my knowledge, whether urged by individual Commissioners or by persons unconnected with the Commission. Other reasons for rejecting my proposals may, of course, exist, but I have not heard them advanced.

render him liable to a like result in the Superior Court, without any trial at all. This argument at least can scarcely be urged by gentlemen, who, "with regard to sums above 20*l.*, where the claim is founded on contract," entertain an opinion "that the practice of judgment by default may be beneficially introduced" into the County Courts. See p. 37 of Report.

The second objection urged against the plan is, that it would operate prejudicially to the interests of the legal profession. I do not think that it would have that effect to any great extent; as the causes which would find their way into the County Counts, were the plan adopted, would probably, for the most part, be of a simple nature; but assuming that the result suggested would follow, it seems to me to afford no valid answer to the proposed change. The real interests of no body of men can be advanced or protected by laws, which are oppressive on other classes; and it does seem to me to savour of oppression, when parties are forced—unless they consent to an amicable arrangement, which is too much to expect from them,—to incur heavy costs in litigation in Westminster Hall, though the plaintiff is willing, and the defendant is not unwilling, to have the dispute settled at a far cheaper rate by an inferior tribunal.

Distinction between contracts and torts with respect to costs in the Superior Courts.

The Report at p. 26 contains the following passage: "The present law as to "costs in the Superior Courts, so far as it affects jurisdiction, should, we think, "remain unaltered," with an exception not material to my purpose.

I dissent from this proposition. At present a wide distinction exists between actions founded on contract, and actions founded on tort. If any sum not exceeding 20*l.* be recovered in the former class of actions in a Superior Court, the plaintiff is deprived of costs, unless the Judge certifies that the cause was fit to be tried before him. The same law prevails in actions on tort, only when a sum not exceeding 5*l.* is recovered. This distinction should, in my opinion, be abolished; and no plaintiff should be allowed to recover costs in a Superior Court, whether the action be founded on contract or tort, unless he recovers a sum exceeding 20*l.*, or unless the Judge certifies in his favour.

The main object of the legislature in establishing the County Courts was to protect litigants from the ruinous expenses of the Superior Courts in all cases where the matter in dispute was, comparatively speaking, of small amount. To effect this object it was necessary not only to create tribunals in which justice might be administered at a trifling cost, but to hold out a strong inducement to plaintiffs to have recourse to them when created. Hence the provisions respecting the deprivation of costs were introduced into the original County Court Act, the effect of these provisions being, not strictly to confer exclusive jurisdiction on the County Courts, and to make it absolutely compulsory on plaintiffs to sue in them, but simply to induce plaintiffs to do so in the great majority of instances, by exposing them to the risk of being deprived of costs, should they needlessly invoke the aid of the more costly tribunals.

The wisdom of dealing with the subject in this mode is not questioned; and the Commissioners are all agreed that the County Courts should possess a *quasi* exclusive jurisdiction over "small claims and small disputes," and "that they shall be made complete Courts for that purpose."

But the point on which I differ from the majority of the Commissioners respects the meaning which ought to be attached to the phrase—"small claims and small disputes." So far as actions on contract are concerned, I think that the legislature has wisely limited the quasi exclusive jurisdiction of the County Courts to cases in which the sum recovered does not exceed 20*l.*; but in actions on tort the present limit of 5*l.* is, in my judgment, far too low.

In the first place, the boundary line between actions on contract and actions on tort has been to a great extent obliterated since the passing of the Common Law Procedure Act of 1852. Take, for example, the ordinary case of an action against a carrier for the loss of a parcel entrusted to him. The declaration may be framed, and generally is framed, in such a form as equally to apply to assumpsit or to case. The action is tried at Nisi Prius, and a verdict for 10*l.* is given. Is the plaintiff to be deprived of costs or not? A cloud of instances might be furnished in which similar doubts would arise; and this constitutes the first objection to the present system.

Next, let it be assumed that a man illegally detains another's goods. The owner has the option of bringing either an action of trover or an action of detinue. If he brings the former, and recovers a verdict for 6*l.*, he is entitled to his costs; but if he brings the latter, and the goods are valued at 19*l.*, he is deprived of costs, unless the Judge certifies. The same result follows in the case of the carrier just put, if the plaintiff, instead of framing his declaration ambiguously so as to suit either assumpsit or case, choses to select a particular form. His right to costs may thus depend on the taste or skill of his special pleader. I submit that this law is absurd.

Thirdly, it appears to me, as a general rule, that actions on tort involve less difficult points of law than actions on contract; and if this be so, it follows that a Judge who has sufficient legal knowledge to be entrusted with the decision of the latter class of cases up to 20*l.*, is at least equally competent to deal with the former class to the like amount. A large proportion of actions on tort consists either of assaults or of collisions, and these cases seldom present any legal difficulty. The law with respect to assaults is at present sufficiently anomalous. The party who is assaulted has the option of proceeding either civilly or criminally. If he proceeds criminally, the matter is either summarily disposed of by a magistrate, or it forms the subject of an indictment which is generally tried at the Quarter Sessions. In either event, it may be reasonably presumed that the Judge is a less sound lawyer than the Judges of the County Courts. No one complains of this jurisdiction, or ventures to assert that the magistrates are incompetent to deal with these cases in a satisfactory manner. Then, assuming them to be competent, on what principle can it be urged, that if the party assaulted, instead of treating the matter as a public wrong, elects to regard it as a private injury, he should be allowed to call in aid the machinery of a Superior Court, and to put his adversary to needless and vexatious expense, when he has an opportunity of obtaining redress before a County Court? If it be urged that difficult questions of fact sometimes arise in cases of assault and collision, and that a jury is more competent to weigh conflicting evidence than a Judge, my answer is, that, at the instance of either party, a jury may be summoned in the County Court; and I have never heard it hinted, that a County Court jury of five is not as capable of unravelling facts and of assessing damages, as a jury of twelve when sitting at Nisi Prius.

A fourth reason which induces me to recommend, that the distinction with respect to costs between actions on contract and actions on tort should be abolished, is this,—that such an alteration in the law would have a powerful tendency to check vexatious and speculative actions, which are now too often brought at the instigation of disreputable attornies for the mere sake of costs. It is notorious that these actions are principally brought for alleged torts; and it would be difficult to over-estimate the discredit which is cast upon the profession of the law and the administration of justice by their frequent occurrence. What adds to the evil is, that in these cases the defendant has no power, by paying money into Court, to escape the infliction of costs; and consequently he is compelled, whenever he has rendered himself liable to be sued at all, either to submit to the extortionate demands of the plaintiff or of his attorney, and to compromise the action on unreasonable terms, or to proceed to trial with a full conscientiousness that in addition to the 8*l.* or 10*l.* which the jury may award as damages, he will be required to pay at least ten or twelve times that amount in the shape of costs. Now, if this class of actions could only be brought in the County Courts,—and they could not be brought in the Superior Courts if damages not exceeding 20*l.* did not carry costs,—they would seldom be brought at all, because the fees allowed to attorneys who practice in the County Courts are not sufficiently large to induce them to trade in speculative litigation.

Lastly, I am emboldened, in recommending this change in the law, by the reflection, that so long as the presiding Judge at Nisi Prius has the power of securing to the plaintiff his costs by certifying that the cause was a fit one to be tried before him, no danger need be apprehended from the circumstance, which must occasionally happen, of a jury taking an illiberal view of the matter, and assessing the damages at an unexpectedly low figure. In these cases, and indeed in all others which might either present peculiar difficulties or might otherwise be deserving of more than ordinary investigation, it is to be presumed

that the Judge would discharge his duty and grant a certificate. This certificate is, in fact, the safety-valve of the plan. No doubt it has been urged in some quarters, that to enable the Judge to grant a certificate to carry costs, is to invest him with a delicate discretion which will not be exercised either on a uniform principle, or otherwise in a way to afford satisfaction to suitors. I however entertain no apprehensions on this score. I have entire confidence in the integrity and sound judgment of the bench. I feel persuaded that the Judges both can and will discharge this duty, however delicate it may be, with becoming propriety. They already have the power when the verdict does not exceed 5*l.*, and it cannot make any possible difference if that power be somewhat extended, so as to meet cases where the plaintiff does not recover more than 20*l.*

Having now stated my reasons for recommending the change, I venture to reply to the objections which I have heard urged against the plan.

These objections are threefold:—

First, It is contended that a marked difference exists between contracts and torts; for when an action is brought on a contract, the plaintiff knows what sum he is entitled to recover; but when he sues in tort, he has no means of estimating what amount of damages ought to be awarded to him.

This proposition I respectfully deny. When a man sues for an ascertained debt, it may be said that he knows what sum is due to him; but in a vast number of actions on contract, the claim is for *unliquidated* damages; and here the plaintiff is in no better position than if he were suing in an action on tort. Besides, it is not correct to say that the plaintiff has no means of estimating what amount he ought to recover when he sues for unliquidated damages, whether in an action on tort or contract. He has ample means for forming at least a rough estimate; and as the County Courts have concurrent jurisdiction with the Superior Courts in claims up to 50*l.*, it is only on occasions when the plaintiff estimates his own damages at a sum exceeding 50*l*, and the jury assess the damages at 20*l.* or less, that he need run any risk of being deprived of costs. In a case of this nature, it may to a certain extent be hard upon the plaintiff to lose his costs in consequence of having taken an erroneous view of the injury he has sustained; but it is surely still harder on the defendant to make him pay an unreasonable amount of costs, which would not have been incurred but through the plaintiff's error.

The above argument, of course, assumes that the jury have pronounced a rational verdict; but the next objection to the plan rests on the assumption that juries are in the habit of giving most capricious verdicts, and that one jury will often give 5*l.* or 10*l.*, when another jury, on precisely similar facts, will award 50*l.* or 500*l.* If this statement be true, it amounts to a very grave reflection on trial by jury, and it furnishes to my mind one of the strongest arguments in favour of a plan for transferring the settlement of "small disputes" to a less capricious tribunal. If such serious injustice be frequently done in the Superior Courts, it may be well worth while to try the effect of a Court in which the litigants, if they think fit, can have the benefit of the opinion of a Judge without the intervention of a jury. If the statement be not true,—and I hope that it is not,—cadit quæstio. The objection based upon it falls to the ground.

The only remaining objection is, that actions on torts are sometimes brought, not so much with the view of recovering substantial damages, as in order to vindicate the plaintiff's character by a public investigation; and that in these cases, it would be unjust to deprive the plaintiff of costs, merely because he did not obtain that which he never sought to obtain,—a verdict for more than 20*l.*

This objection is open to several satisfactory answers. First, the cases are extremely rare in which character is sought to be vindicated in any form of action for tort, over which the County Court has jurisdiction.

Next, it may reasonably be urged that a trial in a County Court affords in general as good an opportunity for vindicating character as a trial at the assizes.

The town in which the County Court is held is usually nearer to the residence of the parties than the assize town is; the trial takes place sooner after the injury was inflicted; and the audience, especially in "small disputes," is more likely to consist of the personal friends and acquaintances of the

litigants. In all these points, therefore, the County Court has an advantage over the Court of Nisi Prius.

But assuming that the case were one, in which the plaintiff could best attain his object of vindicating his character by a trial at the Assizes, the Judge would have no difficulty in granting a certificate, and thus the anticipated evil would fall to the ground.

For these reasons I think that the above objections to the plan are untenable, and I am not aware that any others have been urged.

Concurrent jurisdiction of Superior Courts and County Courts, where parties live more than twenty miles apart, &c.

9 & 10 Vict. c. 95. s. 128.

At p. 26, the Report, after recommending that the rule depriving plaintiffs of costs in the Superior Courts should be extended to judgments by default, proceeds thus:—"This deprivation of costs, however, we propose should be subject to the exceptions contained in § 128 of the 9 & 10 Vict. c. 95, where the parties reside more than twenty miles apart, or the other circumstances contemplated by the section exist."

The above passage contains an indirect proposal to retain the law as laid down in § 128 of the County Court Act. From that proposal I dissent.

When the County Courts were first established, it became a question of no trifling importance to determine in what district the trials should be held. Several alternatives were suggested. The cause might be heard either where the plaintiff lived, or where the defendant lived, or the plaintiff might be the dominus litis, as in the Superior Courts, and be entitled to bring his action in whatever County Court he thought fit, the defendant being at liberty to change the venue on sufficient grounds. After much deliberation, it was deemed expedient to enact, as a general rule, that the summons should issue in the district in which the defendant dwelt or carried on his business; but as it was felt that this rule would operate prejudicially to creditors who might either happen to reside at a great distance from their debtors, or who might have sold their goods in some district other than that in which their debtors live, an attempt was made to palliate the inconvenience by enacting in § 128, that "where the plaintiff dwells more than twenty miles from the defendant, or where the cause of action did not arise wholly or in some material point within the jurisdiction of the Court within which the defendant dwells or carries on his business, the action may be brought in the Superior Court as if the Act had not been passed."

The effect of this enactment is to confer on the Superior Courts a concurrent jurisdiction with the County Courts in all cases where the parties dwell more than twenty miles apart, or where the cause of action arose either wholly or in part out of the jurisdiction of the district in which the defendant lives or conducts his business. In other words, the plaintiff who sues under these circumstances in any Superior Court will be entitled to his costs, although he recovers less than 20*l.* in an action on contract, or less than 5*l.* in an action on tort. Now it appears to me that this is a very serious evil. So far as section 128 operates, it perpetuates the abuses which the establishment of the County Courts was intended to remedy. The object of the County Court system was to relieve suitors from the heavy costs of litigation in the Superior Courts, where the matter in dispute was of small amount. That object is defeated by the enactment in question. The inconvenience which it was intended to meet may, in my opinion, be obviated without any of this costly machinery. My plan is as follows. I propose to repeal so much of sect. 128 as is cited above, and in lieu thereof to enact that in the cases there suggested the plaintiff shall have the option of suing in whatever County Court he thinks fit, but that the Court in which he elects to sue shall be empowered to change the venue at the instance of the defendant on special grounds.

In order to give ample opportunity to the defendant of making this application, I propose that the summons should be served *personally* on him at least *fourteen* clear days before the day of trial, and that it should contain a distinct notice that any application he may make to change the place of trial will be entertained by the Court without his personal attendance, or the attendance of any counsel, attorney, or agent on his behalf, provided that within seven days from the time of service he transmits to the County Court of the district in which he lives an affidavit, stating that he has a defence on the merits, and that

either his material witnesses reside in the district to which he wishes the cause to be removed, or that some other good cause, to be specified, exists for the removal.

As soon as this affidavit is received by the clerk of the Court in which the defendant dwells, it must be transmitted to the Court out of which the summons issues; and notice must forthwith be given by the clerk of this last-named Court to the plaintiff, in order to protect him from incurring the needless expense of bringing up his witnesses.

On the day originally fixed for trial, the Judge will weigh the merits of the application, and contrast the defendant's affidavit with the affidavit of the plaintiff. He will then decide upon the point of venue, and either direct the proceedings to be transmitted to the Court named by the defendant, or appoint the day on which the trial is to be heard in his own Court. Notice of this appointment, like an ordinary notice of adjournment, will be sent to the defendant.

It will be observed that this plan does not vary the rights of the parties as now existing by law. The plaintiff, in the cases contemplated, *is* dominus litis. He may bring his action in whatever county he thinks fit. The defendant is allowed to change the venue on good grounds. The service of the process is personal. With these rights I do not propose to interfere. All that I am anxious to effect is, to save the needless expense of a trial in a Superior Court.

The only objections urged against the plan which have been brought under my notice are, first, that it is complicated, and next, that to empower the Judge to decide the question of venue on affidavits is impolitic.

These objections appear to me to have no weight. I deny that the plan is complicated, for what can be more simple than to require the mere transmission of an affidavit? The reasons why I propose that the affidavit should be sent through the foreign Court are threefold:

1st. It will often be more convenient for the defendant to transmit it in this mode.

2nd. Any formal defect may be pointed out on the spot, and a remedy applied before it be too late.

3rd. The due transmission of the document will be secured, and all questions avoided as to whether or not it was either sent at all, or sent in proper time.

I conceive that there is no impolicy in allowing the Judge to decide the question on affidavits.

In the Superior Courts important questions are daily decided in this manner.

In Equity, affidavits furnish the usual mode of proof.

In the County Courts themselves, the analogous applications for leave to sue defendants out of their district are based on ex-parte affidavits.

For such a purpose as this, affidavits are, in my opinion, preferable to vivâ voce testimony, as perjury on paper is far more dangerous to the deponent than oral perjury.

Mode of remunerating high bailiff.

With respect to the mode of remunerating high bailiffs, the report,—after recommending "the discontinuance of the bailiff's mileage fee, both on serving and executing process, and on conveying defaulting parties to prison,"—proposes, 1st, that "the bailiff should be paid in proportion to the distance travelled by him in serving or executing process, or conveying committed parties, out of the fund which the remaining fees produce," p. 42; and, 2d, that he should in addition to this payment, receive a certain graduated salary, "which should only be one fourth of the amount to which the clerk is entitled," p. 45.

The reasons on which these recommendations are based, are thus stated at p. 45:—

"In the case of the high bailiff the duties of his office are of so peculiar a "description, and the efficient discharge of them so little under the immediate "control of the Judge, that we think a strong interest in the complete perfor-

" mance of his duties ought to exist. We think, therefore, that besides his " salary he should be allowed such remuneration in respect of mileage and exe- " cutions as, with reference to the circumstances of each district, the Lords " Commissioners of Her Majesty's Treasury may from time to time direct."

Now in proposing to abolish the mileage fee I cordially concur with the other Commissioners, for this fee is alike unjust in principle and vexatious in practice. But I cannot assent to the recommendation, that, notwithstanding the abolition of the mileage fee, the high bailiffs should be remunerated, partly by salaries, and partly by payments varying in proportion to the distances travelled by them.

This seems to me to be a faulty system. It is an attempt to unite the two antagonistic plans of payment by the day and payment by the piece. It in fact combines the evils of both plans and the advantages of neither. It imposes upon the bailiffs the necessity of keeping long and complicated accounts; and unless counter-checks are introduced of a costly and elaborate nature, it inevitably opens the door to much fraud.

The majority of the Commissioners, while they recommend that the chief clerks should be paid wholly by salaries, appear to consider that such a mode of payment would be dangerous with respect to the high bailiffs. " The duties of the high bailiffs are of so peculiar a description." This vague language appears to me to be really unmeaning. There is nothing peculiar in the duty of a bailiff. If the system proposed in the Report be expedient in the case of high bailiffs, it is equally applicable to officers of Customs and Excise, to policemen, to postmen, to railway porters, to medical officers of unions. All these officers have responsible duties to perform, with no more immediate supervision than high bailiffs. If a high bailiff neglects his duty, the Judge must almost inevitably hear of it; for creditors, as a body, are little likely to let their interests be disregarded with impunity. Then, if the Judge does hear of it, the penalty to which the bailiff is exposed is sufficiently severe. Under rule 41, it is provided that " if the non-service of a summons " has been caused by the neglect of the bailiff, the poundage for such summons " shall be paid by the bailiff, and the successive summons shall be served by him " without further fee." I refer to this rule as showing that the Commissioners are scarcely justified in asserting that the high bailiffs are " so little under the immediate control of the Judge."

If it be not expedient to pay postmen for every mile they walk, and every letter they deliver; and if policemen ought not to be remunerated in proportion to the length of their beat, and the number of offenders whom they apprehend, I am at a loss to discover how the system proposed in the Report can be regarded as sound. Some few years back that very system was tried with the medical officers of unions. They were appointed at a yearly unremunerative salary, but they were allowed to charge special fees for attending women in labour, and for other operations. Precisely the arguments put forward by the Commissioners were urged in support of this mode of payment. It was tried—it failed; and now, throughout the country, it has been uniformly abandoned at the instance of the Poor Law Board; and the plan of paying medical officers by a remunerative salary, without fees, has been substituted in its place.

In recommending that the high bailiffs should be paid, partly by salary and partly by payments proportioned to the distance they travel, the Commissioners do not condescend to particulars, or explain in what mode they propose to calculate the remuneration for travelling; but I presume that one or other of the four following plans must be adopted.

1. A certain sum per mile for the service of each process.
2. A certain sum per mile travelled in the performance of duty.
3. A certain sum per mile for the service of each process beyond two miles from the Court.
4. A certain sum per mile for each effective journey beyond two miles from the Court.

The first plan, if adopted, would operate most unfairly. In a district containing a scattered population, the service of almost every process might require a separate journey; but if the district contained two or three towns or populous villages, a single journey might suffice for the service of twenty summonses.

For precisely the same duty one bailiff might be paid a shilling and another a sovereign.

Moreover in the case last suggested, the interest of the bailiff would be directly opposed to his duty. His duty would be to serve the process as soon as it was entrusted to him; but his interest would be to keep the process by him until others requiring service in the same locality came to hand, so that he might be enabled, in popular phraseology, to kill several birds with one stone. In the meantime, the debtors would escape or make away with their property, and the result would be, that the creditors would be defrauded.

The second plan is at least equally objectionable; for how would it be possible to ascertain what number of miles had really been travelled in the performance of duty? No system of checks could be invented which would prevent fraudulent demands from being made, or detect them when made. The plan would be a positive premium on dishonesty.

The third plan is open to the same objection as the first; and the fourth is as impracticable as the second.

Both these last plans would also have a direct tendency to induce bailiffs to neglect their duty with respect to the service of process within two miles from the Court; for as that duty would be unremunerative, it would, on the principles enunciated by the Commissioners themselves, become a mere secondary consideration, whenever more lucrative employment was in hand.

Moreover, if either of these last two plans was adopted, the metropolitan high bailiffs would be utterly ruined.

If any further argument were required to show the inexpediency of the plan proposed in the Report, it might be furnished by the conduct of the high bailiffs themselves.

The object in view is to give them "a strong interest in the complete performance of their duties;" for it is presumed that without such an interest the duties will not be efficiently performed. Now, if this doctrine is worth anything, it must apply to the under bailiffs, who actually do the work, at least as forcibly as to the high bailiffs, who superintend it. But what is the actual practice? I believe, on inquiry, it would turn out that under bailiffs are uniformly paid, not by piece work, but by salary. In my own Courts this system prevails, and works well; and, as far as I can discover, the same system is in general operation throughout the country.

The plan, therefore, which I venture to submit in opposition to that proposed in the Report, is, that the high bailiffs, like the chief clerks, should be paid exclusively by salaries; but as the high bailiffs are required in the discharge of their duties to pay considerable sums out of pocket, both for keeping possession of goods taken in execution and for carrying delinquents to gaol, I think that they ought to be reimbursed these expenses. I therefore propose that they should still be allowed the fee mentioned in the Report*, for keeping possession of goods, and also such sums in respect of mileage or expenses incurred in carrying delinquents to gaol as the Lords of the Treasury may from time to time sanction with regard to each district. In fixing the amount of these payments, the object should be, not to remunerate the high bailiffs, but simply to protect them from loss.

J. PITT TAYLOR.

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* "For keeping possession of goods till sale, per day, (including expenses of removal, storeage of goods, and all other expenses whatever,) not exceeding five days, sixpence in the pound on the value on the goods seized."—p. 43.

APPENDIX.

COSTS IN LOCAL COURTS OF RECORD.

No. 1.

Copy of a Letter from Mr. JOHN GUEST to the SECRETARY.

SIR, County Court, Birmingham, 8th November 1854.

I HAVE ventured to send you a few office-copy judgments of the late Borough Court of Birmingham. They are official documents, under the hand of the late Registrar, and duly sealed with the seal of the Court.

Many plaints have been entered at this office to enforce such judgments and costs, since the Court was abolished.

I would beg leave especially to call your attention to Nos. 10,723 and 10,728—the debt in the former case having been only 16*s.*, and the costs 4*l.* 1*s.* 4*d.*; in the latter case the debt was only 4*s.* 3½*d.*, and the costs were 3*l.* 19*s.* 6*d.*

The costs of suit are on the same scale, I think, in many if not all of such Courts; in the late Hundred Court of Hemlingford, for instance; but the last-mentioned Court not having been a Court of Record, I am unable to send you an office-copy judgment of that Court.

I beg, &c.
JOHN GUEST.

SUMMARY of the CASES referred to in MR. GUEST'S Letter.

Judgment.	Debt sued for.	Costs awarded.
	£ *s.* *d.*	£ *s.* *d.*
No. 10,721	7 4 11	5 10 2
„ 10,722	10 0 0	7 17 2
„ 10,723	0 16 0	4 1 4
„ 10,724	3 4 6	3 17 10
„ 10,725	1 15 0	4 9 10
„ 10,726	4 0 0	1 18 6
„ 10,728	0 4 3½	3 19 6

No. 2.

Copy of a Letter from B. FREAR, Esq., to the SECRETARY.

SIR, County Court, Derby, 10th November 1854.

HAVING been informed that the Commissioners appointed to inquire into the state and practice of the County Courts have not yet closed their Sittings, I take the liberty to state, for their further information, with reference to the questions whether any inconvenience had arisen from the Local Courts of Record having concurrent jurisdiction with the County Court, and whether it would be convenient that such Courts should be abolished, some further facts relative to the Court of Record in this Borough.

An action was brought a short time since in that Court, to recover the sum of 4*l.* 7*s.* for a bricklayer's bill, the whole of which, I am informed, was admitted except about 17*s.* The case was tried before the Recorder and a jury of twelve (as any case which goes to trial, however small the amount, must be), and a verdict given for the amount claimed. The plaintiff's costs were taxed at 14*l.* 3*s.*; an execution issued for the debt and costs, the cost of which was 1*l.* 19*s.* 6*d.*, making the plaintiff's debt and costs 20*l.* 9*s.* 6½*d.* The costs of the defendant's attorney were 21*l.* 4*s.* 4*d.*, and the defendant not being in a position to pay, his attorney issued a writ against him for the amount in the same Court.

Had the Borough Court not existed, the plaintiff might himself, and without the intervention of an attorney, have taken out a County Court summons for a fee of 6*s.* 8*d.*; the case might have been tried without a jury, or if a jury had been required by either party, five jurymen would have sufficed, and the whole costs would have been trifling in comparison.

Another case showing the propriety of abolishing the Borough Court has lately occurred. An action was brought in that Court to recover the sum of 35*l.* 16*s.* 1*d.*, alleged to be due from an attorney employed by one of the political parties in this town. The jury, which was composed of persons from each political party, could not agree, and remained locked up the whole of the night, and were dismissed the next morning without giving a

verdict. The case was again tried in the same Court, and a verdict given for the plaintiff, contrary to the summing-up of the judge, nearly the whole of the jury being opposed to the politics of the defendant, and an execution has been issued for the debt of 116*l.* 5*s.* 5*d.*, the taxed costs of both trials. The defendant, however, appealed against the taxation, and the costs of the first trial was disallowed.

Had there been no Borough Court, and the action been brought in the County Court, the clerk would have summoned a jury from the county, and a fair trial would then have been had, and a judgment or verdict given in the first instance, without a second trial and at a much less expense.

I have, &c.

B. Frear.

MINUTES OF EVIDENCE

TAKEN BEFORE

THE COMMISSION

APPOINTED TO INQUIRE INTO THE

STATE AND PRACTICE OF THE COUNTY COURTS.

Tuesday, 28*th March* 1854.

JOHN HERBERT KOE, Esq., Q.C., in the Chair.

Joseph Maynard, Esq., examined.

J. Maynard, Esq.

28th March 1854.

1. You are a solicitor in very extensive practice in partnership with Mr. Crowder ?—I am.

2. An application was made by the Master of the Rolls, who is the chairman of this Commission, to the Incorporated Law Society that they would appoint some member of their society to attend this Commission, and the Commissioners understand that you were selected ?—I understand the result of the discussion that took place at the Law Society to be this : that there was a difference of opinion amongst its members upon the questions that were submitted to them. I believe that the general feeling was rather adverse to the opinion which I entertained, and therefore I presume my name was given in to the Commissioners in order that they might hear both sides of the question. I do not understand that the Law Institution, as a body, are expressing any opinion upon the question, but that some individual members holding different opinions were selected for the purpose of expressing those opinions to the Commissioners, and that my name has thus been given in among others.

3. You have some practice in the County Courts ?—Considering the general nature of our business, I have had a good deal of practice in the different County Courts, always for the defendant. I have had no practice on the part of plaintiffs ; but it has been altogether on the part of defendants.

4. Have you paid great attention to the mode of proceeding in the County Courts ?—Certainly ; I have been, as it happens, in a great many County Courts, both in London, in Middlesex, and in other counties.

5. When you were there upon those occasions you observed the general mode of transacting business in the Courts ?—I did, undoubtedly.

6. You are aware that the exclusive jurisdiction of the County Courts in actions of tort is confined to cases not exceeding 5*l.* The first question we wish to put to you is this, whether it would be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court ?—Perhaps the Commissioners will allow me to say, that in answering that question, the conclusion to which I have arrived, after giving a good deal of consideration to the question, has been, that it would be desirable to go still further, and to give exclusive jurisdiction to the County Courts up to 50*l.* in all actions, except some of a particular class which are enumerated in the Act of Parliament, such as breaches of promise of marriage, malicious prosecutions, libel, slander, crim. con., and seduction, and cases of that sort. My notion is, that in an action of tort, if the measure of damage is clearly disclosed by the nature of the claim,—if a man is bringing an action, for instance, for the loss of a parcel worth 20*l.*, his claim is for 20*l.*, neither more nor less, I do not see any reason, merely because it happens from the particular form of the pleadings to be called an action of tort, why his claim of 20*l.* arising in that way is to be distinguished from any other claim for 20*l.* If a man is suing in a case of crim. con., or seduction, or libel, or any of those cases in which the estimate of the damage is arbitrary, I should say it would be wrong to call upon him to start with saying that his damage is not above 50*l.* ; but all those cases of actions of tort, where the sum sought to be recovered is just as definite as it is in an action upon a promise, I do not see see the principle upon which the distinction is drawn. I have had a good deal of experience in cases of that description, being concerned for a large railway company, who have had those claims made upon them, which are not actions upon promises, but are, of course, actions of tort. I had one case where a man brought an action of tort against the company for

J Maynard, Esq.

28th March 1854.

having turned his goods out of his house, and he claimed 5*l.* 7*s.* He took us to a superior court and he got a verdict, and I don't know what I had to pay him for costs. His claim was for a definite amount, 5*l.* 7*s.*; but merely because it was an action of tort, he had the power of dragging us into a superior court; therefore I consider that in all actions of tort where the money sought to be recovered is clearly defined and understood between the parties, I should draw no distinction between such an action and an action upon promises; but in all cases where the damages are necessarily arbitrary, such as actions for slander and libel, and all those things, there I think it would be unfair to call upon a man to start by saying that he did not value the loss of his character, or whatever it might be, at more than 50*l.*

7. Would you extend the jurisdiction of the County Courts to all cases of unliquidated damages?—I should say, most certainly. There is a class of cases which is constantly occuring, actions for breaches of charter-party. We have had them over and over again; we are constantly having them with shipowners in Newcastle, Sunderland, and other places. The plaintiff takes us into one of the superior courts for a breach of charter-party, or for demurrage, or upon some question about the freight not being paid. His claim is under 50*l.*, or even under 20*l.*, but he has a right to take us into a superior court, and the consequence is, that we invariably advise our clients to pay, because we cannot afford upon a question of that sort to be dragged into the superior courts. Those are cases of constant occurrence, and it is quite understood that it is a sort of offensive weapon in the hands of those who use it, by laying their venue in the country and serving the London merchant with process out of the superior courts, so that he must either pay or subject himself to great expenses, the risk of which it is not worth his while to encounter; and therefore we invariably pay without trying the cause.

8. Therefore you are of opinion that whether the damages are liquidated or unliquidated, except in the class of cases which you have excluded, the jurisdiction of the County Court should be extended to 50*l.*?—Decidedly; because I hold that there is no substantial difference. Although the law says it is unliquidated the man knows quite well what the claim is. For example, in an action for damages by breach of contract, the claim is for the difference between the one price and the other; but it is really just as liquidated in its character as any other action in the common form would be.

9. In the case which you mention where an action of tort was brought, and the damages laid at 5*l.* 7*s.*, do you happen to recollect what was the amount of the costs?—I intended to prepare myself with those particulars, but I have not had time to do so. In such a case the taxed costs cannot be under 30*l.*, that is what we had to pay on our side. There is another class of cases, of which I had an extraordinary instance the other day, which I think is applicable, to show that the distinction, whether it is upon a verdict or not, ought not to be sustained. A party brought an action against the Royal Mail Steam Packet Company for damages for not delivering a parcel in time, which came from the West Indies, and instead of coming by the steamer by which it should have come, it came by the following steamer a fortnight afterwards. They served us with a writ in a superior court. The property came by the next steamer, and we then gave notice to the man, that he might have his property which had come, and he had it. The question was then, what were the damages for the delay? and in order to get out of it, we paid a guinea into Court. He took the guinea out of court, and we paid 10*l.* for costs to him, independently of our own costs. Now I submit that when a party takes money out of court in satisfaction of an action below 50*l.*, or whatever the sum may be, he should be placed in precisely the same condition as he would have been in, if those damages had been recovered by a verdict in an ordinary case.

10. He ought, you think, to have gone into the County Court?—He ought to have gone into the County Court. He must have known what his claim was.

11. In that case your view would be, that he should only have the County Court costs?—Yes, clearly so. But I should further doubt, whether you ought to allow him the option of bringing his action in a superior court; because it is not only the costs that you have to pay in case the verdict is against you, but the costs that you are put to yourself. The costs of defending an action in a superior court are very large, because no man chooses to have any but the best counsel. And if he has the best counsel he must pay them accordingly. And that is one of the difficulties of parties being taken into the superior courts for sums less than 50*l.*

12. The difference between the taxed costs and the costs as actually paid is very considerable?—It is, sometimes; but that is not what I meant. What I meant was this,—that if an action is brought against me, and a verdict is recovered against me, and even if the plaintiff recovers only such a sum as ought to have taken him into the County Court, and therefore recovers against me less costs than he otherwise would, yet my costs are necessarily the same. And why should I be put to the expense of defending this action in the superior court, when, if he had summoned me to the County Court, I could have defended it at comparatively no expense?

13. You mean that it is not merely the question of the costs which the party may obtain from you, if he succeeds in his action, but that your costs are to all intents and purposes superior court costs?—They must be.

14. So that you have to pay 50*l.* or 60*l.*, whereas in the County Court, you would only have to pay 8*l.* or 10*l.*?—As far as my experience goes, the costs that I have had to pay or

J. Maynard, Esq

28th March 1854.

receive in the County Courts have not been worth mentioning, they have been so exceedingly small.

15. Then may we come to the conclusion from your testimony, that in all cases of tort up to the amount of 50*l.*, you would give the County Court jurisdiction?—I would, certainly, except in those cases which I mentioned. And I would say also, unless both parties consented to go into the superior court. Supposing the parties felt that there was something in the nature of the claim which they were contesting which required the judgment of a superior court, if they both agreed, I would give power to the judge to make an order to that effect. But my practice satisfies me, that there is not one such case in a thousand perhaps. People will not incur the expense of trying an action in the superior court for so small an amount.

16. When you say that you would give to the County Courts jurisdiction in these cases up to 50*l.*, do you mean exclusive or concurrent jurisdiction?—I mean exclusive; because if the jurisdiction is only concurrent, the plaintiff can still take a defendant who he knows can pay, into a superior court, and then he must either submit to pay an unjust demand, or is mulcted in enormous costs by resisting it.

17. Have you, in your experience, known instances of that kind?—Decidedly. Instances in which I pay because I am taken into a superior court, but which I should contest if I were taken into a County Court. They are of weekly occurrence.

18. Do you happen to know whether that is a matter of experience also with other gentlemen in the same branch of the profession with yourself?—My impression is, that it must be matter of experience with all the large offices in the City who represent commercial men, because they are a class of people who would pay a demand of this sort rather than be subject to the costs of litigation.

19. You are aware that in cases between 20*l.* and 50*l.* there is an appeal from the decision of the County Court to the superior court?—Yes.

20. Would you take away that power of appeal?—If jurisdiction were given to the County Court in the mode which I suggest, making it compulsory upon the party to go to the County Court, I would not take away the power of appeal.

21. Would you put any restriction upon the power of appeal, such as this, that if the defendant appealed, he should be required to pay the amount of the verdict into court, and give security for the costs?—I think that if the defendant had an absolute right of appeal, he ought decidedly, when he appeals, to be compelled to give security, to pay the amount of verdict against him.

22. Will you advert to section 58 of the 9th and 10th of Victoria. Supposing that in an action for malicious prosecution the plaintiff himself limited his damages to 20*l.*, would you think that a case fit for the jurisdiction of the County Court?—I should go the length of saying, that in any case where the complaining party himself chose to limit his damage to 50*l.*, I should make him go to the County Court. The reason why I have excepted those cases was, that they appeared to me to be of a character in which it was not fair to call upon a man so to limit the injury that he had received, and that it was not fair to bind him, because he did not happen to recover to the amount that the Act of Parliament might require.

23. But if he himself limited his damages in his plaint to 50*l.*, you would give concurrent jurisdiction to the County Court?—Yes.

24. Would you give exclusive jurisdiction in such a case?—Yes. When I excepted those cases, what I meant was, that in that class of cases a party recovering less than 50*l.*, ought not therefore to be considered to have improperly brought his action in the superior court.

25. You mean that the amount of the verdict should not be taken as the test of the propriety of going into the superior court in that class of cases?—Decidedly in those cases.

26. Do you entertain the same opinion with respect to actions for libel and slander?—The only reason for making an exception in such cases, in my mind, is to protect the party complaining of the injury that he has sustained, and therefore wherever he chose to say that he does set his damage above 50*l.* I should send him to the County Court.

27. That opinion would also extend to a case of seduction?—I should extend it to any case in which the plaintiff did not set his damage at more than 50*l.*

28. Would you include in that opinion cases involving questions of title or trespass, and other matters mentioned in the latter part of section 58, provided the plaintiff limited his claim to a less sum than 50*l.*: supposing it to be an action of trespass involving a question as to the right of incorporeal hereditaments, would you think it desirable that the County Court should have jurisdiction in that case?—I think not; because in such a case the importance of the subject matter to be tried is by no means governed by the amount of the verdict, as it is in other cases.

29. So in the same manner with respect to toll?—I should put that case upon the same footing that the sum recovered is not at all a key to the importance of the question to be tried, or to the damage in fact

30. Would you say the same with reference to a question as to the validity of a devise or a bequest?—In all those cases I should exclude the County Court, in conformity with the present law.

J. Maynard, Esq.

28th March 1854.

31. What would you say as to breach of promise of marriage?—In a case of breach of promise of marriage, if the party does not put his damage above 50*l.*, I should send him to the County Court. I am rather anxious to take this opportunity of saying that having been brought into the superior courts in a great variety of cases which I thought ought to have gone to the County Courts, my feeling upon that subject has been confirmed and strengthened by seeing the extremely satisfactory manner in which justice has been administered in the cases in which the parties have gone to County Courts. I have had cases in County Courts of 20*l.*, 30*l.* and 40*l.*, where parties have exercised their right to go there, which really involved very nice questions for decision upon the balance of evidence, and I have always found they were in the result determined with as much satisfaction to the parties, whether I succeeded or whether I failed, as if they had gone to a superior court, with the great advantage of feeling that at all events the costs were not to become the real question at issue, instead of the client's claim.

32. The second question upon which we desire to ask your opinion is, "would it be convenient that a plaintiff suing in a superior court in an action of contract and recovering less than 50*l.* should be deprived of costs?"—Most certainly, in my opinion.

33. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I think not.

34. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest or limitation under a will or settlement is in dispute?—I think not.

35. Do you think it is desirable to repeal the section 128 of 9 and 10 of Victoria, chapter 95, which gives concurrent jurisdiction to the superior courts in the cases there mentioned?—I think it would be desirable.

36. You would, of course, except cases where at the time the action was brought any officer of the County Court was a party?—Yes; except in any case where an officer of the County Court is a party.

37. The effect would be to place the law of venue on the same footing on which it stands in the superior courts; that is to say, that the plaintiff would have the choice of his venue, subject to the condition of giving material evidence in the place in which he laid his venue?—In answering this particular question as to taking away the concurrent jurisdiction, I have a very strong opinion that I would not give the superior courts jurisdiction at all in common cases under 50*l.* I should at once say, take away the concurrent jurisdiction. What may arise out of that in reference to the mode of conducting business in the County Courts, I have not sufficiently considered, but I think it may very readily be moulded so as to preserve the jurisdiction in the County Courts, by settling in some manner the question as to the mode of practice, and as to determining the venue.

38. You mean, by prescribing the conditions on which the plaintiff should be allowed to sue in his own forum, rather than in that of the defendant?—Yes.

39. In transitory actions the plaintiff can lay his venue where he likes, and it is open to the defendant to make an affidavit, and to take it to the district where he says the cause of action arose. Would you think that in the County Courts, if the plaintiff in the first instance was allowed to lay his venue where he chose, the giving a power to the defendant of making an affidavit that the cause of action arose in some other district would be a sufficient protection against the improper use of the power of the plaintiff of laying his venue where he chose?—In the first place, I would limit the plaintiff either to his own place or the place where the defendant was. I would not let him rove all over the country as a plaintiff can do in the superior courts. Then in the next place, I do not consider with reference to the question of venue, that the proper test of one or the other being adopted is the question where the cause of action arose. That does not, in my mind, necessarily determine the propriety of the venue being in the one place or the other. I think that if the plaintiff, in addition to stating that the cause of action arose in his own locality, stated that it would subject him to expense and inconvenience had he to travel after the defendant, that would be very good reason to let him lay his venue in his own locality, although the defendant did not reside there. And, as far as my experience goes, the general ground upon which we seek to change the venue, or to prevent the change of the venue, is the great expense that would be entailed in bringing witnesses. I think that is the better test.

40. You think that convenience in proving the claim is a better test than the question of the place where the claim itself arose?—I think that convenience with reference to expense and other considerations, is the best test.

41. With reference to section 17 of 13 and 14 Victoria, chapter 61, which gives power to the court to try matters beyond its ordinary jurisdiction, with the consent of parties, have there, in point of fact, so far as your knowledge goes, been many instances in which such cases have been brought into the County Courts?—No.

42. Can you state why it is, in your opinion, that parties have not generally availed themselves of the jurisdiction of the County Courts under that clause?—My feeling is, that plaintiffs and defendants very seldom agree upon anything. The mere fact of the plaintiff asking the defendant to agree to something would be a certain reason why he would refuse.

43. There is no provision with respect to costs in that clause. May not the fact of

regular costs not being allowed, either by law or practice, to attorneys engaged in such causes, be the reason why greater use has not been made of the consent clause?—It may be, but it is not the reason that would occur to me.

44. Have you ever heard it suggested that it was on account of the high court fees in the County Courts?—No; I never heard the operation of the clause discussed at all. The truth is, that parties who are going to law do not agree.

45. You have in your own experience had no evidence of the operation of that clause at all?—Not at all.

46. As far as your practice has gone, that provision has never been brought into operation?—Quite so.

47. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient where the declaration required by section 121 of 9 and 10 Victoria, chapter 95, has not been made?—I have no experience upon this question, nor upon the following three questions.

48. With respect to the practice in the County Courts in replevin, or in interpleader, or in proceedings to recover tenements, under section 122 of 9 and 10 Victoria, chapter 95, you have no experience?—I have no experience.

49. Are you of opinion that it is desirable to repeal so much of the proviso contained in section 11 of 13 and 14th Victoria, chapter 61, as excepts judgments by default from the operation of the enacting part of the clause?—Certainly; and the case of paying money into court appears to me to be one of the cases that ought to come under the general operation of the Act *à fortiori*, because if a man lets judgment go by default and the plaintiff cannot show that his claim amounts to the required sum, or if a smaller sum is paid into court and he takes it out, I see no reason why he should be permitted to have the benefit of costs in the superior court, where it is clear upon his own showing that he ought not to have gone there.

50. You have had great experience in matters of equity?—Yes, I have more equity business than I have common law.

51. Would it, in your opinion, be desirable that the County Courts should have an equitable jurisdiction to a limited amount? You are aware that the County Court has now jurisdiction in actions for legacies not exceeding 50*l*., and in shares of intestate estates not exceeding 50*l*. Do you know whether there are many instances of actions being brought upon legacies and shares of intestate estates not exceeding 50*l*?—The term "equitable jurisdiction" is so very wide, that I do not know how to deal with it. If any given cases to which the term "equitable jurisdiction" may apply were defined, one could deal with them. But to say that in all cases, because the sum is small in amount, the parties should go to the County Court instead of the Court of Chancery, appears to me very questionable.

52. Suppose a person dies intestate, or testate, and leaves property to the amount of about 300*l*., would it be beneficial or desirable that an estate of that amount should be administered in the County Court if it consists merely of personal estate?—The answer that I should give to that question would certainly be that it was not desirable. The jurisdiction of the equity courts now is very much improved, the cost of conducting business there has immensely diminished, and although no doubt, cases will always arise in which the subject matter does not altogether warrant the expense of going there, I should consider that such cases were rare exceptions, and it is a principle upon which I have always acted never to legislate for exceptions.

53. Are you of opinion that there are cases now in which persons go without having their rights enforced on account of the expenses attached to a suit in equity in the superior tribunals?—I have no doubt that such cases must occur, and if they could only be defined, many of them would be cases which might be very conveniently and advantageously dealt with in the County Courts. But I do not see my way to any means of defining them.

54. Suppose the case of an ordinary claim amounting to less than 50*l*., would it not be more convenient that a man should be able to go at a cheap rate into the County Court to enforce that claim, rather than go into one of the superior courts of equity, even with the advantages which you suggest arising from the improved mode of dealing with small suits there?—What occurs to my mind is, that the cases in which it is necessary to go to a court of equity for such smaller amounts are so rare that it is not worth while to interfere with the system of equity jurisdiction for the purpose of providing for them.

55. Would you give the Court of Chancery power in any of those cases to refer the case to the County Court to hear the evidence and to make a report upon which the Court of Chancery should decide the case?—I would rather let the court of equity decide the case itself, because before the court could be in a position to do that, a great deal of expense must have been incurred. You cannot move in the superior court for any purpose without the assistance of counsel, and very great expense is then incurred. I would much rather follow out the principle which I believe is gaining ground that the equity judges should themselves decide matters without referring them either to other courts or even to other branches of their own courts.

56. Does the present mode of taking evidence in the Courts of Chancery appear to you satisfactory?—My experience is necessarily limited, but I have great apprehensions that the system of taking oral testimony before the examiners will be a failure.

J. Maynard, Esq.

28th March 1854.

57. Supposing cases to arise in which it might be necessary to take a great deal of evidence at a considerable distance from London, would it be convenient that the court of equity should have the power of referring cases of that kind to the County Court for the purpose, not of deciding, but of taking the evidence and returning it to the court?—There are modes now which the court can adopt of taking evidence at a distance from London. I do not myself see what distinction there is between any such system and the County Courts. I think the County Courts have quite enough to do with administering the class of business for which they were constituted.

58. But the only mode now of taking evidence in the country under a court of equity is simply by means of a commissioner with the doors closed, and with no means of cross-examination but upon interrogatories. Is not that the case?—My impression is, that evidence may now be taken before a commissioner orally.

59. But still he must return the written depositions?—The evidence must be taken in writing, so it must be in any case in which it is to be made use of afterwards in another court.

60. Is it your opinion that that is likely to be equally effective with taking the evidence in the county court, where the judge and the counsel and the parties are present at the examination and the cross-examination?—Still it must be taken down; therefore it would be merely substituting the County Court for the Commissioner.

61. Would not the evidence be of a better stamp than what would be taken by a commissioner upon depositions?—I think not.

62. Will you favour us with your reasons why you think not?—In the first place the County Court is an open court, to which all persons of all classes have access. And I do not see the advantage of those courts taking evidence in cases in which they are not to adjudicate—with which they have no sort of connexion—and to which therefore their attention can only be very inadequately applied. Whereas I think a commissioner appointed for the purpose of taking evidence in a particular case in the presence of the parties will do it as efficiently as it is possible to be done. And unless there is some benefit to be derived, I should always be adverse to changing the existing system.

63. At present in taking evidence before a commissioner, although the parties may attend and may have their solicitors, and so on, it is necessarily a sort of close room, not an open court. Do not you think that there is some value to be attached to an open court with reference to witnesses giving their evidence?—I think not, unless that examination be conducted in the presence of the judge who is afterwards to deal with it.

64. You do not think that the mode of taking the evidence by a County Court Judge, and returning it to the court of equity, would be so superior in advantage to the present mode of taking evidence in the country as to make it worth while to alter the practice?—I do not think it would be superior.

65. Would it, in your opinion, be desirable to give jurisdiction in bankrupty to the County Courts?—My experience in bankruptcy is of course confined to the London Courts, where it is very efficiently administered, and unless the amount of business to be transacted was found to be so reduced as not to be sufficient to occupy the Bankruptcy Court as now constituted, and at the same time the County Courts were found to be in want of employment, I am of opinion that it would not be desirable to give jurisdiction in bankruptcy to the County Courts.

66. We are not to understand that the organization of the County Courts is, in your opinion, unfit for the purpose of transacting business in bankruptcy?—If the County Courts are to have jurisdiction in bankruptcy, they must of course devote a great portion of their time exclusively to that. The present business of the County Courts and the business in bankruptcy cannot be conducted concurrently. Although it would be the same court with two branches, it would be just as distinct as two courts would be. And it seems to me to be rather a question whether the present Bankruptcy Court or the present County Courts are found not to be sufficiently employed so as to make it desirable that they should be amalgamated.

67. Assuming the number of County Courts to be increased so that there could be no doubt that sufficient leisure would be afforded to the judges to transact the additional business thrown upon them by the bankruptcy jurisdiction, do you see anything in the constitution of the County Court which should unfit it for the performance of that duty?—No; I have no doubt that the County Courts might be so remodelled as to be competent to administer jurisdiction in bankruptcy if it were found desirable that they should do so; but I do not myself at present see any necessity for the change. I do not know anything about the business in the country; I only speak of the business in London. The County Courts would have to be entirely remodelled for the purpose of transacting the business of bankruptcy. It would be simply transferring the jurisdiction in bankruptcy to another tribunal, accompanied by all its incidents. If the County Courts were to administer bankruptcy they must have official assignees.

68. Might not the clerk be made the official assignee?—I think not, because the business of the official assignee is not merely getting in the money, but he has all the accounts to go into. He has a very laborious duty to perform which requires a man of great talent and acquirements.

69. You think the official assignee essential to the good working of the court?—I think the institution of official assignees, after the experience we have had of them, quite essential to the due administration of the business in bankruptcy.

J. Maynard, Esq.

28th March 1854.

70. Would it be possible to administer the business of bankruptcy properly without continuous sittings?—It would not be possible to administer the business of bankruptcy without continuous sittings at certain intervals, for instance every week.

71. If bankruptcy jurisdiction were given to the county courts, would it not be attended with some inconvenience, with regard to lodging papers for instance?—I consider that if the jurisdiction in bankruptcy were transferred to the county court, you must transfer everything now belonging to the Court of Bankruptcy to the County Court, and it would be a separate branch of jurisdiction and attended with precisely the same adjuncts as the bankruptcy business now is. Because I do not consider the Bankruptcy Court, as now administered, to be at all overloaded with staff

72. At present the Bankruptcy Court at Bristol, for example, sits constantly, while the County Court is held in six or seven or eight towns in succession; then, supposing the bankruptcy jurisdiction were transferred to the County Court, which sits one week at Gloucester, another week at Cheltenham, another week at Cirencester, and so on, might not great inconveniences result with reference to the transaction of the bankruptcy business?—I think that is an objection which it is hardly possible to answer.

73. Therefore you think that at present it would be very inexpedient to give jurisdiction in bankruptcy to the County Courts?—I do.

74. Would it, in your opinion, be desirable to give jurisdiction to the County Courts in criminal matters now disposed of at quarter sessions?—Certainly not.

75. Would it be desirable to tranfer to the County Courts the duty of revising the lists of voters?—I am not very well acquainted with the duties of the revising barristers, but it occurs to me that the County Courts, from their habit of holding their sittings at different places in the different counties, might probably be conveniently made available for that purpose.

76. Is the present system of stamps in equity found convenient and beneficial?—So far as the benefit is in question, if the object of the alteration in the system was (as I have understood it was) to secure the payment of the fees by means of stamps, that end, I consider, must have been attained. But the alteration of the system is attended with a good deal of inconvenience to the solicitors in the necessity of supplying themselves with stamps, and more particularly in furnishing of copies of affidavits, which involves a great mass of detail of figures with reference to the monies received for them.

77. Are you able to say whether there is any inconvenience to the officers of the court from the present system?—No, I do not know; I never go there.

78. What would be your opinion of the introduction of stamps into the proceedings of the County Courts?—My opinion is, that the introduction of stamps is attended with excessive inconvenience to the solicitor, although it may be a convenient mode of collecting the revenue.

79. You think that inconvenience would apply to the County Courts as well?—In every respect.

The witness withdrew.

James Wright, Esq.

James Wright, Esq., examined.

80. You are now clerk of the Bloomsbury County Court?—Yes.

81. Were you many years clerk or registrar of the County Court of Middlesex?—I was registrar of the County Court of Middlesex between seven and eight years, and I was first appointed to an office in the court in 1819.

82. Would it, in your opinion, be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court?—Speaking from experience only in my own court, I should say that the County Court would try all actions of tort quite as well as the superior courts; and I think a jury of five preferable to a jury of twelve. I do not see why we should be limited in tort to 20*l.*, and in contract to 50*l.* I do not understand, if a carriage is broken, and the damage amounts to 30*l.*, why the case should not be tried in the County Court as well as if it amounted to only 20*l.* My answer to the question would depend entirely upon the scale of costs allowed to attornies in each court. I am inclined to think, that if there is the same scale of costs allowed to the attornies in the County Courts as in the superior courts, then they should have a concurrent jurisdiction in actions of tort. I believe that competition is good for the public in law, as in trade, and if there was the same scale of costs allowed to attornies in the County Courts as in the superior courts, I think the County Courts would have the principal part of the business, more particularly in country districts. I believe that the very great majority of all causes would go the County Courts in the country districts, if the same scale of costs were allowed to attornies as in the superior courts.

83. What would be the costs that would be allowed to an attorney in the superior courts in an action of tort for 20*l.*?—I cannot tell, not being an attorney and not having directed my attention to the subject. I know, however, that a judgment may be obtained by default in the superior courts at very little expense; indeed, at much less expense than in the County Courts.

James Wright, Esq.

28th March 1854.

84. Are you then of opinion that the attornies in the County Courts ought to be allowed the same costs as they would be in the superior courts?—Whatever the scale of costs allowed to an attorney in the superior courts is, I think the same, or nearly the same, ought to be allowed in the County Courts. I mean in this way, that the attorney himself for his personal attendance ought to have as much in the County Court as in one of the superior courts. There would still be a great saving in the County Courts, especially in the country, by avoiding the expense of bringing witnesses a great distance to the assize town, and keeping them there for several days. I do not know why the attorney for his day's attendance should not have as much in the County Court as in the superior court; and counsel's fees, I think, ought to be the same for conducting a cause in the County Court as in the superior court.

85. You think that the costs allowed to an attorney in the County Court should be higher than they are at present, but not so much as in the superior courts?—Not so much as they have been in my experience in the superior courts. I do not know what the costs of an attorney would be now for conducting a case of tort that was contested in the superior courts. It would, of course, depend very much upon circumstances.

86. You have not happened to look at the scale of fees which has been determined by the judges of the superior courts?—No, I have not.

87. We understand you to say, that in your opinion it would be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs unless the judge certifies that the case is fit to be tried in the superior court?—I should answer that question in the affirmative, according to my experience of the expense of the superior courts and of the County Courts.

88. You are of opinion that there is no substantial distinction between an action of tort and an action of contract?—I think not.

89. Would you extend the jurisdiction of the County Courts with regard to actions of tort, up to 50*l.*, supposing the plaintiff in his plaint to limit his claim to a sum under 50*l.*?—Certainly; I have no hesitation in saying that I would. I see no distinction. Indeed, I think it very hard where a man says, "My damage is 30*l.*" that he should not try it in the County Court.

90. Then whether in tort or in any other case, if the claim which the plaintiff makes does not exceed 50*l.*, you would say that the County Court should have jurisdiction?—Certainly.

91. Would you have it exclusive or concurrent?—I would have it concurrent, provided the costs allowed against the losing party were the same.

92. But supposing that the costs were higher in the superior court than in the County Court, would you then have the jurisdiction concurrent or exclusive?—Then I would have it exclusive in the County Court. Because I think it a very hard thing that a rich man should put a poor man to the expense of defending an action in the superior court at a great additional expense.

93. You think it would be desirable that the suitor should have the choice of jurisdiction, but that the suitor should not have to pay more for the one than for the other?—Yes, beyond a certain amount. I would not give a choice of jurisdiction below 20*l.*

94. But between 20*l.* and 50*l.* you would give concurrent jurisdiction if the costs were the same?—Yes; then I would give a choice of jurisdiction up, not only to 50*l.*, but to 500*l.*

95. You see no objection to the jurisdiction being extended beyond 50*l.* in all cases?—No, but I would give the defendant power to remove the case to a superior court upon just cause being shown to a judge.

96. You would extend the jurisdiction to any amount beyond 50*l.*, but you think that in cases beyond 50*l.* it should be competent for the defendant, upon reasonable cause being shown, to take the cause to the superior court?—Yes.

97. Would you impose such terms as these upon the defendant, namely, that he should find security for the amount of the claim in the County Court, and for the costs as a condition of the removal of the case to the superior court?—I think I would, or leave it to the discretion of a judge at chambers, who should order the cause to be removed on such terms as he might think fit to impose.

98. Do you think that the County Court should have jurisdiction in an action for malicious prosecution where the plaintiff lays his damages under 50*l.*?—I cannot see why it should not.

99. Are you of the same opinion also with respect to an action of libel or slander, where the damages are so limited?—I have some doubt upon that subject as a matter of policy, whether it would be wise to give poor people rights of action for slander at very little expense. If all men are to have equal civil rights it seems to me just, but I doubt whether it would be politic. Confining my answer however to slander and libel only, I think I would give jurisdiction to the County Courts in those cases. I think that the County Courts ought to try all those actions which are now tried in the superior courts up to 50*l.*; but the doubt I have is, whether we should not be called upon to try a great number of little actions which are now not brought or thought of being brought at all.

100. Irrespectively of the question of policy, you do not see any objection to the County Courts having the jurisdiction?—No doubt many a poor man is prevented getting his just rights because he cannot go to a superior court.

101. With respect to actions for seduction and breach of promise of marriage, do you think the County Court ought to have jurisdiction in those cases where the plaintiff lays the damages at a sum not exceeding 50*l.*?—Yes, I think so as a matter of justice, but again I doubt it as a question of policy. I have always supposed that the legislature excluded this class of actions, not because the County Courts were incompetent to try them to a small amount, but because it was not desirable to encourage such actions among the poor.

102. But if a wrong exists, why should not the parties have a remedy?—I cannot say that they ought not to have a remedy. I cannot deny that it would be just that every breach of promise of marriage should be compensated for among the poor as well as the rich. I see no objection to it, except that I have some doubt about the policy of it; as to the justice of it I have no doubt whatever.

103. Would it, in your opinion be convenient, that a plaintiff suing in a superior court in an action of contract and recovering less than 50*l.* should be deprived of costs?—Yes. I think that if he recovers less than 50*l.* he ought, under the present state of things to be deprived of his costs. If you can assimilate the course of the one jurisdiction to the other, I should say give concurrent jurisdiction above 20*l.*

104. Do you think that, generally speaking, the parties are satisfied that justice is fairly dealt out in the County Courts?—Yes, I think parties are satisfied with the administration of justice, but I think the courts operate hardly upon the poor.

105. Do you think that the plaintiff obtains judgment against the defendant without having a just demand?—I do not mean to say that the judges do not do justice as far as they can. I think the costs they are called upon to pay in the case of admitted debts (and the great majority of them are admitted) are most oppressive towards them. But I have seen nothing to induce me to believe that justice is not administered to the poor as well as to the rich; it is rather in the fees that that effect is produced, but by no means with regard to the administration of justice by the judges.

106. Would it, in your opinion, be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I think it would. At present the not having jurisdiction must be a denial of justice to many a poor man who has some right of that sort. I think it would be very convenient, particularly in country districts. There are many rights of that kind that never can be tried at all, in consequence of the great expense of the superior courts, and of going forty miles or more to the assize town.

107. Do you bear in mind, that although the sum involved in the action may be very small it may involve a right of very great value?—Yes; and that brings to my mind that the judge ought to have the power in all cases to grant an appeal, however small the sum, if he think fit, for several cases have occurred in the court of which I am clerk in which a very small sum was in question, but it involved some very important matter which should be settled as a question of law in the superior courts. In all those cases I would give, with the permission of the judge, the right of appeal.

108. You think it would be convenient that the County Court should have jurisdiction in a case in which the title to any corporeal or incorporeal hereditament comes in question, but that the decision of the judge should be subject to appeal if the judge should be of opinion that it is a proper case for appeal?—Yes; I think then it would be very desirable.

109. Would it, in your opinion, be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?—My answer to that would be precisely the same as to the last question.

110. Do you think it is desirable to repeal section 128 of the 9th and 10th Victoria, chapter 95?—I am decidedly of opinion that that ought to be repealed.

111. Would you except that part of it which relates to the officers of the court?—No. I do not think that the officers of the County Court ought to have the option of bringing an action in the superior court. According to that clause, as I read it, if a man owes me 1*l.* I can bring an action in the superior courts for it, because I happen to be an officer of the County Court. That seems to me to be wrong.

112. Upon general grounds would it be right that the court of which the party suing is an officer should try causes in which he is concerned?—No; but the adjoining County Court judge should. I think an officer of a court ought not to have an action brought against him in that Court, and he ought not to be permitted to bring one, but he ought to be required to bring it in the next adjoining court not presided over by his own judge. I do not think he ought to have the option of going to the superior court, nor ought the plaintiff to have the option of dragging him into the superior court.

113. Then your opinion is, that that clause should be repealed, except as far as relates to actions in which officers of the court are parties, and that they should sue or be sued in some adjoining County Court?—Yes; and I think there ought to be the power of changing the venue in certain cases in the County Court, and I know my judge is of that opinion very decidedly with reference to some cases which he has been compelled to try a second time, and which he would not have done if he could have avoided it.

James Wright, Esq.

28th March 1854.

114. What is your opinion of the cause of the parties not having more generally availed themselves of the jurisdiction by consent, under section 17 of the 13th and 14th of Victoria, chapter 61 ?—The cause is, that there is no adequate scale of costs for attornies. Attornies would I believe constantly bring actions in the County Court, but there are no costs allowed for the winning party against the losing party. There is no power of granting costs against an adverse party, therefore, if tried at all, they must be tried by agreement similar to an arbitration.

115. Do you think the amount of fees in the County Court has the effect of preventing parties from coming there ?—No. I do not think the fees of the court are too large in such cases as those.

116. You have mentioned one difficulty, namely, the attorney's costs. Has anything else occurred to you as preventing parties from agreeing to avail themselves of the County Courts ?—I do not think that parties are likely to come together to agree, unless it is for their interest. A mere arbitration between parties for settling their disputes amicably I think never would succeed. Mr. Serjeant Heath tried it in the old County Court of Middlesex, by volunteering to all parties, if they thought fit, to arbitrate between them free of all expense ; and it was published in the several County Courts of Middlesex, that all parties who thought fit might go before him and he would arbitrate between them, instead of their having a lawsuit. I think he had one, and only one case.

117. Then you consider that one main reason for their not doing so is, that you cannot get the parties together to agree ?—The parties generally, before they take any legal proceedings, do all they can to come to some settlement ; but one party is found to be very unreasonable in the opinion of the other, and then when they find they cannot at all agree, they make up their minds to have it decided in court, and the losing party, where the sum in dispute is very small, would frequently appeal if he had the power. The other day, my judge, who hardly ever fired a gun off in his life, had a cause come before him as to the value of a gun. He said to the parties, " I know nothing about it ; go to Mr. Jackson, or some leading man in the trade." They tried to do so, but they came back, saying, " You must decide it." Then he said, " I must decide it at a venture." And whenever he says to the parties, " Now, is not it better to refer this to some one who understands it ?" we generally find that they have tried that before, and they say, " No ; you must decide it."

118. And he decides it upon evidence ?—Yes ; but that is sometimes very evenly balanced in such cases.

119. But your opinion is that the principal reason is, the want of a scale of costs for the attorney ?—Yes, because it is so much more for the interest of the client to try a cause in the County Court and not to go to the assizes ; there are many districts fifty miles from the assize town. I have no doubt that if there was an adequate scale of costs in the County Courts, they would try all the cases : I believe there would be nothing for the judges to do at the assizes.

120. Have you had any cases of replevin in the court in which you are clerk ?—Yes, we have had several.

121. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient where the declaration required by section 121 of the 9th and 10th of Victoria, chapter 95, has not been made ?—No, certainly not ; I have never heard any inconvenience whatever alleged, nor any complaint made ; and cases have been tried beyond the amount of 50*l*.

122. You have not found the jurisdiction in replevin inconvenient ?—Not at all.

123. And cases in your court have been tried beyond the amount of 50*l*.—Yes, we have not had many replevins ; but we have had two or three which have been above 50*l*.

124. Have you had many interpleaders ?—Not many as compared with some of the courts : we have not had more than perhaps two or three in as many months.

125. Has any inconvenience arisen from the present practice in interpleader where goods are taken in execution ?—No, I think not.

126. Would you think it desirable that there should be an appeal to the superior court in cases of interpleader, where seizure has taken place, supposing the amount to be above 50*l*. ?—I have some doubt about that : it is a matter of fact which can be tried by a jury. I doubt whether there should be any appeal in matters of fact. If any question of law arises I think there ought to be an appeal in that as in any other case, but I should not allow an appeal upon matters of fact.

127. You think that upon matters of law in cases of interpleader above 50*l*., where seizure has taken place, there ought to be an appeal ?—Yes, I think the judge should have the power in all cases of allowing an appeal upon any questions of law.

128. You think that whenever a question of law arises, whatever the amount may be, there should be a power of appeal if the judge thinks it right ?—Yes, whatever the amount may be.

129. Subject to the terms to be imposed upon the defendant ?—I would make it upon such terms as the judge thought fit to impose. Sometimes very important questions arise where the matter in issue is only the question of a few shillings, such as a question about a railway fare or a toll, or a question of servants' wages ; sometimes very nice questions

James Wright, Esq
28th March 1854.

arise upon which a poor defendant or plaintiff cannot afford an appeal. I think the judge in such cases should have the power of ordering an appeal upon such terms as he might prescribe, it would be for the advantage of the country at large. There may be cases in which neither party may wish to appeal, but the judge would wish to have the question settled, and it might be of importance to all the County Courts. There are many important questions upon which there is no decision in the superior courts, because they have always been about sums too trifling to go to a superior court.

130. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts beyond that of giving the power of appeal which you have mentioned?—No; I have nothing beyond that.

131. Have you had many cases of ejectments from small tenements?—Yes, and I think the jurisdiction in that respect is a great convenience to the public: they are generally very dishonest cases on the part of the defendant.

132. You think it is a very convenient jurisdiction?—I think it is.

133. Are you of opinion, that it would be convenient to extend that jurisdiction to tenements of greater value where the relation of landlord and tenant exists?—Yes, I think it would be convenient to extend it. It does not strike me that there would be any objection to extend it to any amount. If a man will not pay his rent I cannot see why he should not be turned out summarily.

134. You mean in cases where the relation of landlord and tenant exists?—Yes, I do not understand that we have any power where the relation of landlord and tenant does not exist or has not existed.

135. In the class of cases in which the court has now jurisdiction you would extend it to any amount of rent?—Yes, I would.

136. In that case would you think it desirable to have an appeal if it exceeds 50*l.* on matters of law?—Yes, certainly.

137. On such terms as the judge should think right?—Yes.

138. Do you think it would be convenient that the jurisdiction should be extended to cases of forfeiture where the annual rent does not exceed 50*l.*?—I remember that question was discussed once or twice in the Bloomsbury Court, as to whether our present power did not extend to those cases where the term had ended by forfeiture. I think that up to 50*l.* the County Court ought to have jurisdiction.

139. For example, for a breach of covenant for not repairing a house, or for not cultivating land?—Yes.

140. In that case would you give an appeal?—I am inclined to think I should give an appeal upon any question of law. With respect to cases of forfeiture I see that there would be great difficulties. It is a question that I have not considered, and I see that it is of wide extent, therefore I would answer it generally, by saying that I think that in all these cases the County Court would try the questions at less expense and as satisfactorily as they are now tried, and that if the County Court generally had power over all the parties and over all the sub-lessees to bring them in, it would be a very important jurisdiction.

141. Then you think that where the interests of the two parties to the suit involve the whole question, and there is no other party interested, the jurisdiction would be proper?—Yes, I think the jurisdiction would be right; and I do not see that the jurisdiction would be wrong in any case, because whatever difficulties exist in the County Court I believe exist now in the superior courts to a far greater extent. That there may be half a dozen actions arise out of one action of ejectment brought, I can understand. I should feel disposed to say that in all cases the County Court should have jurisdiction, and that in all cases there should be a power of removing it to the superior court on certain conditions if you can satisfy the judge of the superior court that it is a case that ought to be removed.

142. You think that it would be convenient that the jurisdiction of the County Court should be extended to cases of forfeiture, where the annual rent does not exceed 50*l.*, subject to a similar power of removal which now exists under the County Court Act, or subject to an appeal?—Yes.

143. Is it, in your opinion, desirable to repeal so much of the proviso contained in section 11 of the 13th and 14th of Victoria, chapter 61 as excepts judgment by default from the operation of the enacting part of the clause?—I think that ought to be repealed. I happen to know that there is a great deal of business taken to the superior courts even from the County Courts in consequence of that very section, and that the clerks and assistant clerks of the County Courts recommend clients who come to enter plaints, to consult them out of the County Court office, and then, they say, "I can bring the action now for you in the superior courts, and it would be of as much advantage to you, and more to me, and I will take the risk of getting judgment by default."

144. Would it, in your opinion, be desirable that the County Courts should have an equitable jurisdiction to a limited amount?—I think it would.

145. Have you had any experience of courts of equity?—I cannot say that I have, except to some extent as a suitor; but my impression always has been that it would be exceedingly desirable that the County Courts should have equitable jurisdiction. I have thought much upon the subject, and I think that with respect to acting as trustees for

James Wright, Esq.

28th March 1854.

widows and orphans they might be made to confer very great benefit upon the country, especially upon the lower and middling classes of society.

146. You mean in settling questions as to trusteeship?—In settling questions as to trusteeship and administering the estates of intestates and testators.

147. And testates also?—Yes. My attention was particularly drawn to this subject by an advertisement which has been inserted lately of a new company to be formed for trusteeship. If a person in the upper class of life is left executor, and if he likes to place the estate in the Court of Chancery, it is administered for a certain per-centage, and sometimes to very great advantage; but in the middle classes a little tradesman—and I speak from personal knowledge of a great many such men—who has accumulated some 300*l.* or 400*l.* for his family and who wants to leave it, has the greatest difficulty in finding any one man who will act as his executor. And even if he can get a faithful man to execute the trust for him he has constantly great temptations not to administer the trust faithfully, but to deviate in some way, and to allow the family to have the property. Therefore if a little tradesman could place his 400*l.* or 500*l.* in the County Court, and have it administered by some officer of the County Court, I believe it would be a very great advantage to an industrious tradesman or to a mechanic who had accumulated a little money.

148. You mean that the funds might be paid into the County Court as they are into a court of equity and there administered?—Yes; the money would be placed in Government hands, and a man would feel that it was safe and secure.

149. Supposing a testator made his will and left 300 amongst seven or eight persons, you think that in that case the County Court should have the power of administering that sum the same as the Court of Chancery has, without driving the parties into the Court of Chancery?—Yes, I think up to the amount of 1000*l.*

150. Would it, in your opinion, be desirable to give jurisdiction in bankruptcy to the County Courts?—I do not feel myself capable of giving an opinion upon the subject.

151. Would it, in your opinion, be desirable to give jurisdiction to the County Courts in criminal matters now disposed of at quarter sessions?—I should say, certainly not. I believe there is a strong prejudice in the great mass of the public against mixing up criminal and civil matters. That was strongly the opinion when it was proposed that the police courts in the metropolis should become local courts of jurisdiction for the recovery of small debts.

152. Do you think it would be desirable to transfer to the County Courts the duty of revising the lists of voters?—I think it would; and that would give no great increase of duties. I think the public would have great confidence in the decisions given by the County Court Judges.

153. Do you think that the present amount of fees is too high?—I do not think it is too high for the causes that are really tried. In default cases and in admitted cases, it is too high.

154. You would think it desirable that a less amount of fees should be paid where the claim is admitted than where the claim is contested?—Certainly. I think that very great hardship indeed is inflicted upon the poor, because there was a section in an Act of Parliament, the 13th and 14th of Victoria, which said that parties might come before the clerk and admit the debt, and have judgment entered up and an order made for payment. I consulted with my judge as to what fee was to be taken in such cases, and he expressed his opinion that in those cases no hearing fee was to be taken; but immediately an order from the Secretary of State came out which directed us to take the hearing fee in all such cases, and the result has been that the section has been a nullity. If it was not for that order, under which we are to take the hearing fees in admitted cases, the great majority of the causes that every week come before the court would be settled by the clerk, and an order made for payment, and the court fees would be very greatly reduced; besides which, it is a great hardship upon the poor, the great majority of whom at once admit their debts; and they are debts contracted under circumstances which, I think, ought to be treated with very great indulgence. A man is thrown out of work, or he is ill, or his wife and family are ill, and he asks for indulgence of various parties; he asks his landlord to give him time for the payment of his rent, and he gets credit from his baker and his butcher, and he promises them all that when he gets into work he will pay them. It frequently happens that as soon as he gets into work he is worse off than when he was out,—all his creditors come upon him at once, and each of them thinks that he is entitled to a preference. An order is made in the County Court for 4*s.* a month to one creditor and 4*s.* to another; then an execution goes to take the wretched room of furniture of this poor man. I should be glad to see some legislative enactment, that in all cases so much of the weekly labourer's wages as is ordered to be paid into court should be appropriated to the payment of all their judgment debts, and not to the one who may be the most grasping; and that no execution should issue against the goods of any labouring man without bringing him up upon a summons similar to a judgment summons for commitment. The misery inflicted by imprisonment never was, in my experience, equal to that inflicted by taking the goods of the poor. And the costs that are now imposed in those cases become a tax upon the poor man's bread; perhaps the goods which are taken will not pay the amount of the possession-money and the execution fees. There is the power

now (and I think it is a very oppressive one) of adding to the debt continually, the costs of execution, the costs of the judgment and summons, and the costs of the warrant for his commitment to prison; and I cannot tell to what extent the debt, with those costs, may be accumulated against a poor man, for the judgment remains against him all his life. The warrant of execution should be in force till executed. These fees I think bear very hard indeed upon the poor who have to pay their creditors out of their future labour. I think the fees are too high in all admitted cases and in all default cases.

155. But not in other cases?—I do not think them too high. I must say that, if fees are to be levied at all, I do not think the fees are high enough in cases between 20*l.* and 50*l.*

156. Do you think it desirable that the County Courts should be called upon to support themselves?—I think decidedly not. I think it is a great hardship upon the poor; it seems to me to be taxing the poor man's bread. Whilst I am upon the subject of fees, will you allow me to mention another fee which I think very oppressive? I think the high bailiff's mileage fee is a very hard fee indeed upon the poor, more particularly in those districts where the court happens to be erected at one extremity of the district, as it is in the parish in which I live—Willesden. Every poor person in Willesden has to pay double the fees that he would pay if he lived in Marylebone, because it has been convenient that the Marylebone court house should be erected at one extremity of its district. I hold in my hand a summons which was issued for Willesden. The costs of summons and service is 2*s.* 8*d.*, instead of 8*d.*, as in my court. Now it strikes me it is very hard upon every person in Willesden that he should be subjected to mileage because the Marylebone Court is not in the centre of the district.

157. You think the mileage fee is oppressive?—It is oppressive, and ought to be altogether abolished.

158. How would you pay the bailiff for his services?—I do not know how it would operate in the country districts, but I know that they would be paid very well in the London districts by taking the short and the long distances together. In the old County Court, our officers had constantly to go to Whetstone and Finchley, and received no more for going to those places than they did if they went into the street next the court; they took one with another.

159. The mischief in the case you have mentioned is that the court is built at one extremity of the district?—That is partly the case, but of course there are many districts in the kingdom in which the court may be in the centre, and still there may be a mileage of twelve or fifteen miles in some instances.

160. But must not the bailiff be paid for his services?—He must be paid somehow for his services.

161. Must he not be paid adequately, or else is there not great danger that he will be a dishonest man?—Yes, he must.

162. And you cannot make a rule for one court which is not to be universal for all; all the officers must be paid, and must be paid properly?—That is a very difficult question. I have very great doubts whether you ought not to make different rules for London and large towns. I doubt very much whether there ought not to be a different scale of mileage for the large populous districts and the remote rural districts. In the old County Court the bailiffs had a uniform fee,—they took the short with the long,—and I think it ought to be the same now. The suitor living within two miles of the court should pay 2*d.* or 3*d.* in the pound, if necessary, instead of 1*d.*, and he would have no cause to complain, as he would still have many advantages over the unfortunate who live at a distance.

163. You think that the mileage fee, as at present arranged, is inconvenient and oppressive?—I am decidedly of that opinion.

164. Is that opinion founded upon a particular district, or is it of general application?—I think it applies generally in remote districts. For example, I think in Durham and Lancashire there are some places 20 to 30 miles from the court house.

165. When the party lives at a great distance from the court house the mileage fee is oppressive?—I think very oppressive indeed. There is another subject that I wish to suggest, that a plaintiff for a debt of 5*l.* value should always have the option of taking his order for payment at once if he thinks fit, as in the superior courts, I would allow the plaintiff to take it just as he likes; if he thinks right to have the payment immediately, he should have it.

166. Should not it be left rather to the discretion of the judge?—No. There is very great diversity in the practice of the judges in that respect. I am supposing in cases where the debt is above 5*l.*, that the debtor is always a man in trade, and not a poor labouring man. There are very few poor labouring men indeed owing debts above 5*l.*

167. Your opinion is, that in all cases of judgment above 5*l.*, the plaintiff should have a right to take immediate payment irrespectively of any discretion of the judge?—Yes.

168. Do you think that in the County Court there would be any means of safely and conveniently obtaining judgment by default, provided the summons is personally served?—If the summons is personally served, I should say that the judgment ought to be

James Wright, Esq.

28th March 1854.

obtained by default, without proving the debt; but in that case, I think I would not allow execution to issue until after service of the order for payment and another court day.

169. Have you had occasion to consider this point with reference to the machinery for working it out, so as to facilitate the enforcement of the plaintiff's right, and at the same time to give due security to the defendant?—At present in cases where defendants do not appear, the plaintiffs are put to a great deal of unnecessary expense and inconvenience, and sometimes much more than when the defendants appear, more especially if the judge is very particular in the proof. I have known many a man lose his cause, where if the defendant had appeared he would very likely have got some admisssion which would have enabled him to make out his case. The great difficulty that occurs to me is, as to personal service, who is to make it? the plaintiff of course must make it, or somebody for him, and not the officer, as the bailiff can never know the defendant. The attorney now makes personal service in the superior court, but he gets somebody who knows the man to go with him.

170. Does not the bailiff get somebody who identifies the man?—Yes, but the bailiff cannot stop all day watching for him, but the plaintiff would get somebody to watch for him. The high bailiff sometimes makes a plaintiff's servant or shopman his deputy, in order to serve a summons. I am inclined to think that a plaintiff himself ought to have liberty to serve his own summons as well as subpœnas. In our old County Court, in cases of judgment by default, service was made at the residence of the person, and it was not necessary to serve the summons more than two clear days before the day of the hearing. That would be too short a time now; but still I think the time now too long. On the day of hearing if the defendant did not appear judgment was entered by default; but that was only what we called a nisi judgment. An order nisi was then served in the same way as the summons had been served, and the following week, if the defendant did not then appear, there was absolute judgment and an order made for payment; if he did appear upon that occasion, even if he gained the cause he had to pay the costs, because he did not attend the first time. Execution was not allowed to be taken out upon this judgment by default till the plaintiff had made personal service of the order absolute for payment, and execution therefore could not be entered till the next court day, so that it might be carried over three weeks. That worked extremely well. We certainly did sometimes find that a poor labouring man would come forward and say, "I never knew anything about this; I never heard of it till now;" and then he had a hearing, if he satisfied the judge upon it; otherwise execution went. And I think some such plan as that would be desirable still. I think the summons now ought to be delivered to the bailiff the same or the following day after the entry of the plaint, and that the bailiff ought to serve them within two days of their being delivered to him, and within two days more a copy should be returned with the endorsement of service. The summons should state the instalment, if any, which the plaintiff proposes to accept, and that if the defendant does not appear the order will be made for payment as therein stated. At the expiration of seven days' from the service, judgment should be entered by default if the defendant has not in the meantime put in a defence, and if he has put in a defence, I would require him to deposit 1*s.* in the pound, or something, as security that he did not do this for mere delay. That was done in some of the old local courts. On this being done, ten days should be given the parties to prepare for trial. I do not think that too long if they have a defence, and if it is really to be litigated. In admitted cases they should pay only a small fee upon going before the clerk to enter up judgment and make out an order for payment. A great majority of the cases, then, even of large debts, would come only before the clerk, and not go before the court at all. Then in default cases execution should not be taken out till after notice had been given of the judgment to the defendant by post, nor till after the next sitting of the Court after such notice had been given. According to this plan, all the causes set down for hearing before the judge would be litigated causes, not a jumble of admitted and disputed and default causes, as is now the case. It would very much diminish the fees, no doubt, if a very small fee were taken before the clerk, because a great many cases which are not admitted now would then be admitted, but still it would bring before the judge only the causes he had actually to try. There is great complaint now of plaintiffs that there is too long a time given between the entry of the plaint and the judgment.

171. The summons now must be served ten days before the hearing?—Yes.

The witness withdrew.

Friday, 31*st March* 1854.

JOHN HERBERT KOE, Esq., Q.C. IN THE CHAIR.

W. Furner, Esq

31st March 1854.

WILLIAM FURNER, Esq., examined:

172. You are the Judge of the Sussex District of County Courts?—I am.

173. And you have been so ever since their first establishment in 1847?—I have been.

174. You had been previously the judge in a local court having jurisdiction to the extent of 15*l.*?—Yes.

175. Would it, in your opinion, be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court?—Yes; I think that the County Courts should have exclusive jurisdiction in actions for the recovery of sums not exceeding 20*l.*, but that for sums above that amount the jurisdiction should be concurrent with the superior courts, and not confined within any limits, but to be subject to the restrictions in the proviso to section 58 of the 9th and 10th of Victoria, chapter 95, and in all actions above 20*l.* I would give the defendant power to remove to a superior court as in section 90 of the 9th and 10th of Victoria, chapter 95. The power given by that 90th section is "That no plaint entered in any court holden under this Act shall be removed or removable from the said court into any of Her Majesty's superior Courts of Record by any writ or process, unless the debt or damage claimed shall exceed 5*l.* (I would make it 20*l.*) "and then only by leave of a judge of one of the said superior courts in cases "which shall appear to the judge fit to be tried in one of the superior courts, and upon such terms as to payment of costs, giving security for debt or costs, or such other terms as he shall think fit."

176. In legislating on that section you would substitute 20*l.* for 5*l.*?—I would.

177. Is there, in your opinion, any substantial distinction to be made between an action of tort and an action of contract with reference to jurisdiction?—I do not see any line that should be drawn.

178. Is there any reason, as far as you have observed, why the same tribunal which can dispose of an issue in an action of contract should not also be capable of disposing of an issue to the same amount in an action of tort?—I think not; I think there can be no objection whatever. In most cases in actions of tort the damages are laid at small sums; the actual damage sustained is generally very small, and I do not see why the County Courts should not have jurisdiction to the amount of 20*l.* as well as 5*l.* in actions of that description.

179. From the experience that you have had in trying causes, whether of tort or of contract, do you find that there is any greater difficulty in determining an action of tort than in determining an action of contract?—None at all; although an action of tort generally occupies a longer time.

180. No more difficult points of law in your opinion arise in an action of tort than in an action of contract?—It frequently happens that in an action of contract no nice questions of law arise at all, but they often arise in actions of tort.

181. You think they arise more frequently in actions of tort?—I think more frequently in actions of tort; but not questions of such difficulty that they cannot well be disposed of in the County Courts

182. You say that in actions of tort, generally speaking, questions of law more frequently arise than in actions of contract. Are you of opinion that that being so it would be desirable that the decision of the County Court judge in such cases should be subject to appeal, although the amount in dispute should not exceed 20*l.*?—I think it should be at his own discretion. I think the judge should have a discretionary power to direct an appeal upon the application of either party.

183. But you would not give the power of appeal, even upon questions of law, in actions of tort, without the consent of the judge?—No, not where the amount in dispute does not exceed 20*l.* I think it might put poor suitors to great expense. My opinion is, that where the damages are laid at a small amount, the appeal should only be by leave of the judge.

184. Would it, in your opinion, be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I think not, because it would tend very much to destroy the utility of the Courts for the recovery of small debts. It would occupy so much time if we were to try titles.

185. Is that the only objection that you see to it?—Yes; I see no other.

186. Then you do not think there would be anything improper in the County Court having jurisdiction in those matters, except the occupation of time that it would occasion?

W. Furner, Esq.

31st March 1854.

—No, I see no other reason. It must be borne in mind that the courts were established principally for the recovery of small debts, and it might occasion inconvenience to suitors in those cases. I think that if the court had jurisdiction to try questions of title, they should be tried on different days.

187. Would there be any difficulty in making that arrangement?—I do not know that there would be any.

188. Supposing the judge was to devote more days in the year to the trial of causes, and to set apart particular days for this class of causes, should you then see any objection?—No.

189. Supposing the number of judges were increased from sixty to a hundred, would you see any objection?—No. I think that if you were to increase the number it might be done. I see no other objection to it than that of interfering with the ordinary business of the court as at present constituted.

190. With reference to the present number of judges?—Yes.

191. Then we are not to understand that you are of opinion that there is anything essentially defective in the organization of the County Courts for this purpose, except so far as the number of judges might be insufficient to dispose of the number of cases in which those questions would arise?—I see no other difficulty.

192. Would you give the same answer to the question, whether it would be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?—Yes, the same answer would apply to that question also. I see no objection to giving the courts jurisdiction to try titles, further than that it would occupy too much of the time of the judges, and interfere in that respect with the main objects for which the courts were established.

193. Is it in your opinion desirable to repeal section 128 of the 9th and 10th of Victoria, chapter 95?—Certainly.

194. Will you favour us with the reasons why you think that desirable?—I think my answer to the first question answers that. I think it is desirable, because, in my opinion, the County Courts should have exclusive jurisdiction in cases not exceeding 20*l.*

195. Even in cases where the plaintiff resides twenty miles from the defendant?—I do not see any reason for making any distinction on the ground of distance.

196. Then there is a third case provided for, namely, where an officer of the court is a party?—There are constantly actions brought in County Courts against officers of the court now.

197. Where the parties reside more than twenty miles asunder, is it, as far as you have observed, frequently the case that actions are brought in the superior courts which ought properly and reasonably to be disposed of in the County Courts?—Certainly.

198. How is that?—I believe it is a very common practice for persons having small bills of exchange to transfer them to some person residing beyond twenty miles, so that an action may be brought upon them in the superior court. For example, in the case of a debt in Brighton, the bill may be transferred to a person in London, and then, being beyond twenty miles, he may sue the party in a superior court upon it at a much greater expense. I am told that that is frequently done.

199. So as to secure the greater rate of costs which is given in the superior courts?—Yes; those cases might be easily disposed of at much less expense in the County Court; generally there is no defence to them.

200. Probably in those cases judgment is taken by default where the action is brought in the superior court?—But still the expense is much greater than it would be in the County Court.

201. What, in your opinion, is the cause of parties not having more generally availed themselves of the jurisdiction by consent under section 17 of 13th and 14th Victoria, chapter 61?—I think the principal cause is that attornies are entitled to no costs for getting up and conducting cases of that description.

202. Does the amount of fees payable in the court, what are called the court fees, operate to prevent their coming into the County Court?—I think not.

203. Does the absence of a right of appeal, as the law now stands, from the decision of the court in such cases operate to prevent parties coming into the County Court?—It may to a trifling extent, but not generally, I think.

204–9. You think the principal reason is that which you have stated?—I think the principal reason is that attornies have no costs in actions of that description, which would, generally speaking, necessarily occupy much of their time and labour.

210. Do you think that as it can only be by arrangement between the parties that these cases can be brought into court, that very often the plaintiff is very unwilling to apply to the defendant to consent to have the case decided by the County Court?—I think there may be a reluctance in parties conferring with each other upon questions upon which they are in dispute.

211. Do you think it desirable that there should be an appeal in such cases?—I think

so; they can hardly be considered in the nature of cases of arbitration. They have been spoken of as being arbitration cases, but they can hardly be so considered, because material questions of law might arise in cases of that description.

212. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient where the declaration required by section 121 of 9th and 10th Victoria, chapter 95, has not been made?—No; I am not aware that any inconvenience has arisen in those cases.

213. Have you had many cases of replevin brought before your court?—Yes; many.

214. For sums exceeding 50*l.*?—I have not had many cases of replevin where the sum exceeds 50*l.*; the more frequent cases of replevin, which I have had, have been for damage feasant.

215. Where the property that has been seized might far exceed 50*l.* in value?—Yes.

216. Have many cases of replevin been removed from your court under the provisions of this section?—I do not recollect any. I think there have been none.

217. Has any inconvenience arisen from the present practice in interpleader, where goods are taken in execution?—No; I am not aware that any inconvenience has arisen.

218. Have you had a great number of cases of interpleader before you?—A great many.

219. At the present moment are you aware that the period which has to elapse between the service and the hearing of an interpleader summons is the same as in the case of an ordinary summons?—Yes.

220. Would it be desirable to shorten the period, in order to diminish the costs of possession by the high bailiff?—I think it would.

221. In the answers we have received to our inquiries we find it stated that the possession fees are large, in consequence of the lapse of time between the issuing of the summons and return of it to the County Court. Are you of opinion that it would be desirable to shorten that period?—Yes; I think it would. But I would further say, that I think it must be the fault of the judge if the fees are large, because I never allow my high bailiff to take any fees after the five days beyond the actual money paid to the man in possession.

222. You only allow the actual costs in fact beyond the five days?—Yes.

223. Therefore the complaint which we have sometimes heard of the excessive amount of the high bailiff's charges must rather be in consequence of an unskilful application of the scale of fees to each particular case?—I think so.

224. And therefore not a defect in the scale itself?—No; should the judges act upon the principle never to allow anything after the expiration of five days beyond the money actually out of pocket. There is one thing to be considered in shortening the time, that except where the courts are held several days in each month, as in London, no great benefit could result from that, because in the country, the court could not be held till the next month.

225. Then your opinion is that the shortening of the period would rather apply to cases within the metropolitan district, than to rural districts?—Yes.

226. Your reason for saying so is, that as the courts are only held once a month in the country, or at least are not necessarily held more frequently than that, and as execution generally issues immediately after the holding of the court, it can only be the period which elapses between the issuing of the execution and the holding of the next court which can be the period of possession?—Yes.

227. Do you find that parties generally consent to waive that difficulty in order to have the matter disposed of as early as possible by the judge at the next court?—They do; they generally consent.

228. If therefore the high bailiff does his duty, and the parties do not compel him to remain a long period in possession, those expenses will not be incurred?—No.

229. Have you any suggestion to make for improving the practice of interpleader in County Courts?—No; I am not aware that any alterations are desirable. I think the practice works extremely well in that respect.

230. Where the amount of claim exceeds 50*l.*, would you think it desirable that any appeal should lie from the decision of the County Court judge upon matters of law?—I think not in interpleader.

231. You are of opinion that in all cases of interpleader the decision of the judge should be final, whatever the amount of the goods seized?—I think so.

232. As the jurisdiction now stands, the levy could seldom be much more than 50*l.*, because the high bailiff would of course only seize goods of the value of 50*l.*?—Yes.

233. Then for sums between 20*l.* and 50*l.* you would not allow an appeal?—No.

234. Even on matters of law?—No; the cases are generally very fully discussed. There are professional men almost always employed on each side. I think, generally speaking, the parties are satisfied with the decision.

235. As a general rule is it a question of fact or a question of law which you have to decide?—Both.

236. Is it not generally more a question of fact than a question of law?—Yes; I think more frequently a question of fact, but often questions of law are mixed up with it.

W. Furner, Esq.

31st March 1854.

237. Still you think the balance of advantage is in favour of letting the decision of the judge be final, whatever the amount seized may be?—I think so.

238. Is the jurisdiction to give possession of small tenements under section 122 of the 9th and 10th of Victoria, chapter 95, found to be convenient?—Yes; most convenient.

239. Have you had a great number of those cases?—A great number, particularly in the agricultural districts.

240. Would it be convenient to extend that jurisdiction to tenements of greater value, where the relation of landlord and tenant exists?—Yes; it might.

241. Would you put a limit upon the cases to which it should so extend with reference to the amount of rent where that relationship exists?—No, I think not. I do not see why the County Court should not have an unlimited jurisdiction, where the relation of landlord and tenant exists.

242. Would you subject that jurisdiction to appeal where the rent exceeded the amount of 50*l.* a year, which is the limit of the present jurisdiction?—I think where the relation of landlord and tenant exists, there ought to be no appeal. By the present law the warrant may be stayed on terms.

243. Then are we to understand your evidence upon this branch of the inquiry to refer to those cases where the question to be decided by the County Court judge is as to the simple cesser of the relationship of landlord and tenant?—Yes.

244. As in a case where a notice to quit is given, or the tenancy has expired by effluxion of time?—Yes.

245. Is there not some doubt at the present moment whether, as the law now stands, in the event of a cesser arising from a forfeiture, the County Court has jurisdiction?—I think it has not jurisdiction.

246. Would you be of opinion that it would be desirable to extend the jurisdiction to those cases where the cesser of the tenancy arises from a forfeiture?—Yes; but in those cases I would give a power of appeal.

247. Where the cesser of tenancy arises from effluxion of time, or from other cause than forfeiture, you would give to the County Court unlimited jurisdiction with no power of appeal?—Yes; I think where the tenancy has expired by notice to quit, or by effluxion of time, I would give no power of appeal.

248. Whatever the amount of the rent may be?—Yes; where the relation of landlord and tenant exists, but where the cesser arises from forfeiture, or any other cause, I would give a power of appeal.

249. In all amounts?—Yes. I think also that jurisdiction might be given to the County Courts in cases between mortgagor and mortgagee. It frequently happens that property is mortgaged to its full value, the mortgagor being the occupier, and after notice to pay off, the mortgagee is often driven to the expense of an ejectment, because the mortgagor will not give up possession without being bought out. I have heard of several cases of that description. No questions of law arise there.

250. Does the difficulty of dealing with that case arise partly from the County Court having no equitable jurisdiction?—No. I think that is a mere legal question. The mortgagee might never foreclose; he wishes to get possession; forfeiture has arisen; notice is given to the mortgagor to pay off; he refuses to pay off; he is in occupation himself; he refuses to quit; the mortgagee wishes to get possession; he gets possession by ejectment, but he is driven to the assizes at an expense of 50*l.* or 60*l.* I am sure that the giving of such a jurisdiction to the County Courts would be hailed as a great boon in agricultural districts, where there are many small mortgages.

251. Is it desirable to repeal so much of the proviso contained in section 11 of 13th and 14th of Victoria, chapter 61, as excepts judgments by default from the operation of the enacting part of the clause?—This would be very desirable.

252. Would it be desirable that the County Courts should have an equitable jurisdiction to a limited extent?—I doubt the propriety of giving an equitable jurisdiction to County Courts even to a limited extent. The present machinery of the Courts is scarcely adapted to it. The clerks in the County Courts are all attornies, and it could hardly be expected of them to devote their time to matters of reference out of court. It would be necessary that each of the judges should have a clerk, irrespective of the clerk of the court, to accompany him on his circuit, to whom matters of account, &c., could be referred if equitable jurisdiction were given.

253. Do you think that the present construction of the court is fit for the administrative branch of a Court of Equity, even supposing the present court was fitted for the decision of questions of equity in the legal sense of the word?—No; in all those cases where administrative functions would have to be performed a reference would be necessary, and I think the present machinery is unsuitable for that.

254. You think that, even supposing the judicial power of the County Courts to be sufficiently strong in such cases, the administrative power would be unfit for the purpose?—I think it would.

255. You were many years in practice as a solicitor before you were called to the bar?—I was.

256. And you therefore had an opportunity of knowing the proceedings in equity, and

the difficulties attending the enforcement of the rights of parties in equity, whether the matter be regarded as an administrative or as a judicial question?—I had.

257. And the opinion which you have now expressed is the result of your consideration of the whole subject with reference to County Courts, aided by your past experience?—Certainly.

258. Would it be desirable to give jurisdiction in bankruptcy to the County Courts?—I think it would.

259. You formerly had great experience in matters of bankruptcy?—I was a district commissioner of bankrupts.

260. You were many years a commissioner in Bankruptcy under the old system?—Yes; many years. I think that bankruptcy jurisdiction in the County Courts would be attended with great advantage to creditors, as it would save them the trouble and expense of travelling.

261. Would not it be necessary to have machinery for the purpose of taking accounts?—No; they do not want any machinery for that purpose in bankruptcy further than what the County Courts could supply.

262. Is not the official assignee essential?—The official assignee is, but the clerk of the court might be official assignee as he is now in insolvency cases. I see no difficulty in disposing of matters of bankruptcy in the County Courts. I think they are well adapted for it.

263. Would not the same difficulty arise with respect to bankruptcy which you suggested to arise in equity?—No.

264. Will you tell us why you are of that opinion?—There would be no matters to be referred in bankruptcy.

265. There is the sale of property in bankruptcy?—The sale is effected by the assignees, subject to control, and the money is received by the official assignee. The creditors' assignees are not allowed to receive money on the disposal of the property. The official assignee receives the money and then a dividend is declared by the court.

266. Would it be convenient to make the clerk of the court the official assignee in such cases?—I think so.

267. That is so in insolvency now, is it not?—Yes.

268. Is it found to work conveniently in insolvency?—It is.

269. Have you in the course of your experience heard any complaints of the present system of jurisdiction in insolvency by the County Courts, either in insolvency where imprisonment takes place, or in insolvency under the protection statutes?—I have never heard any complaint.

270. The number of protection cases is greater than the number of imprisonment cases?—In my district there is a much greater number under the protection statutes.

271. Have you heard any objection made by parties to the mode in which the business is disposed of?—Not at all.

272. Is not the property to be disposed of in insolvent cases generally extremely small, even where there is any?—Not always, but the County Court declares a dividend, great or small, where there is any estate; and I do not see why the machinery should not be equally applicable in bankruptcy as in insolvency. The clerk might be the registrar and official assignee, and the high bailiff the messenger in bankruptcy cases. You would then have a complete machinery.

273. How would it operate, supposing there was a pressure, to take procedings in bankruptcy if the judge were away?—I am not aware what the present practice is in that respect, but I believe the commissioner is not necessarily present at the time the petition for adjudication of bankruptcy is filed. It is always done by the proper officer of the court. It must be borne in mind that the bankruptcies in the agricultural districts are very few. The bankruptcies in my district would be principally in the Brighton Court, where I reside, and where I sit four times in a month.

274. The duties which are now required to be performed in the Bankruptcy Courts in the absence of the judge might be performed by the clerk of the County Court?—Yes.

275. Have you in the course of your experience heard complaints of the want of a local tribunal for the disposal of bankruptcy cases?—Yes, frequently.

276. Has the present system, by which parties are obliged frequently to go great distances in order to proceed in bankruptcy, been a subject of complaint?—Yes; it deters creditors frequently from personally inquiring into the affairs of the bankrupt.

277. Where is the nearest district commissioner to Brighton?—In London, I believe. London takes a hundred miles round.

278. Do you not think that the time which would be occupied by the court in dealing with questions of bankruptcy would be such as to interfere with the duties that devolve upon it in the recovery of small debts?—I can hardly say that it would not interfere; it would give more labour to the judges. For instances, I must sit much more frequently than I do now in Brighton; not in the other districts, perhaps, because there are few bankruptcies there. In my twelve places probably, with the exception of Brighton and Hastings, there would not, on an average, be one bankruptcy in a year.

279. But with an increased number of judges that difficulty would be obviated?—Yes;

W. Furner, Esq.

31st March 1854.

but I do not think it would require an increased number of judges for bankruptcy jurisdiction. I think it might be done with the same staff. Perhaps in some large towns, such as Liverpool, Manchester, Birmingham, Bristol, and some others, it would interfere. I do not know what the bankruptcy cases might be in those places, but in agricultural districts undoubtedly it could be done.

280. Is it your opinion that it is only in the rural districts that the County Court judges could consistently with their other duties, exercise bankruptcy jurisdiction?—I think in the manufacturing districts it might interfere with the time of the County Court judge in other matters.

281. Would it, in your opinion, be desirable to give jurisdiction to the County Courts in criminal matters now disposed of at Quarter Sessions?—I think those matters might be well disposed of by the County Courts, though they appear to be very well disposed of at the Sessions.

282. Do you think they could be disposed of in the County Courts without increasing the number of judges?—I think you would require an increase in the number of judges If you gave to the County Courts jurisdiction in bankruptcy, and jurisdiction in criminal cases, you must increase the number of judges.

283. Would it be desirable to transfer to the County Courts the duty of revising the lists of voters?—I see no advantage that would result from that change beyond that of saving the expense of the revising barristers.

284. If it were transferred to them, you think them competent to perform the duties of revising the lists of voters?—Certainly.

285. From the experience that you have had, are you of opinion that the introduction of the payment of the fees of court by stamps would be beneficial?—I am not aware of any advantage that would result from that.

286. Have you in the course of the inquiries which you have been able to make ascertained whether the present system could be conveniently altered into a system of payment by stamps?—I have not heard any opinions expressed upon that.

287. Do you find any inconvenience arise from the mode in which the fees are now paid?—None whatever.

288. Have you heard any complaints made from your treasurer, or any other person competent to give an opinion with respect to the present mode of book-keeping, as to whether or not it is a convenient one, for the purpose of securing the public against defalcation?—None; I believe it is very convenient; I have heard all the clerks in my district express opinions in favour of it.

289. You have twelve towns in your district?—I have.

290. Have you considered the question whether it is desirable that the County Courts should be self-supporting, or whether they should receive assistance from Government sources?—I think they should not be self-supporting; I think it is hard to impose upon the suitors of the County Court, who consist principally of the poorer classes, the entire expense of maintaining the establishment, more especially as the civil jurisdiction of all other courts is mainly supported out of the national revenue.

291. Do you think that if the present scale of fees were diminished the consequence would be that it would increase the number of suits instituted in the County Court?—Yes.

292. Do you think that if the present scale of fees were diminished, the present revenue of the courts would probably remain the same as it is now or be increased?—That would depend upon the extent of the decrease in the amount of fees.

293. Assuming that the amount of fees levied in the County Courts was diminished by one-fourth, do you think the revenue of the courts would remain about the same as it is now, or that it would be diminished?—I think the revenue would be very little decreased. I think the additional business would compensate for the loss of that portion of the revenue.

294. You assisted in framing the present scale of fees taken in the County Courts?—I did.

295. Do you remember at the time when that scale of fees was framed, it was calculated that the amount of fees that would be produced by that scale would be about 50,000*l.* less than was produced by the previous scale?—Yes, I think it was so.

296. Has it been since found that the effect of diminishing the amount of fees in that ratio has in fact been that the present produce of the fees of the court has come up to wha it was at the time when the new scale was introduced?—I believe it is so; so that in truth it has not caused the loss to the revenue that was expected, because the increased business of the courts has made it up. But then the increased jurisdiction has also been a makeweight in the scale.

297. Are we to understand that your reason for thinking that the whole expense of the establishment should not be thrown upon the County Courts is, that the whole community benefit by the establishment, and that therefore the whole community ought to a certain extent to bear the burden?—Yes, I think so.

298. Have you observed, having had experience before those courts were instituted, whether the state of credit between parties is generally in a more sound state than it was when those courts were first established?—Yes, I think much.

299. Do men now abstain from running into debt as far as you have observed, who formerly were in the habit of doing so when there was no facility of enforcing claims against them?—Yes; particularly I should say in the agricultural districts. The moral influence of the County Court has been such, that it has very much improved the condition of the agricultural labourers. They used formerly to get hopelessly in debt to the country shopkeepers, and being reckless of the consequences, they spent their money on the Saturday night at the public house; but now I am told, and I believe it is the fact, that the agricultural labourers, being emancipated from the thraldrom in which they were held by the shopkeepers before, take their money home to their wives, who go with that money in their hands to the shops and get much better served, and in every way more advantageously to the family. In fact that result is so fully confirmed, that I am told, the country brewers begin to complain of it. I have heard, as a fact, that the brewers in the country complain that the agricultural labourers do not spend so much money at the beershops as they used to do, and I have no doubt that that is in a great measure to be attributed to the moral influence of the County Courts.

W. Furner, Esq
31st March 1854.

The witness withdrew.

Adjourned.

Tuesday, 4th April 1854.

JOHN HERBERT KOE, Esq., Q.C., in the Chair.

Charles Edward Pollock, Esq., examined.

C. E. Pollock, Esq.
4th April 1854.

300. You are a barrister-at-law?—I am.

301. Have you acted as deputy for any of the judges of the County Courts?—I have, both in London and in the country, more frequently in the country.

302. You have great experience of the proceedings of County Courts?—I think I may say I have.

303. You have written a work upon County Courts?—I have; on the practice of the County Courts.

304. Of which the second edition very recently came out?—In October, last year.

305. Would it, in your opinion, be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the Judge certifies that the case is fit to be tried in the superior court?—I think not, except in certain cases of tort. If it is one of those cases of tort where it is a mere accident whether the action is in tort, or for money had and received; for instance, if it is trover, for the conversion of any chattel or for money had and received, I think in those cases there is no reason why the action of tort should not be brought in the County Court, but I do not think that all cases of tort, in the more ordinary sense of the word, should be brought in the County Courts. My impression is, that it would not be advantageous to encourage the trial of those actions in County Courts.

306. Will you state your reason for that impression?—My impression with regard to the latter class of actions is this, that to a certain extent I think it is advisable that difficulties should be put in the way of the trial of such actions. I think that I have seen instances in the country where actions have been brought in the County Court, and defended with great vigour, which if there had been the intervention of more difficulty never would have been brought, and I should say never should have been brought. I think that some should never have been brought at all. Others should have been brought with greater publicity, and with the intervention of a full jury, which somewhat takes away from the evil which otherwise arises from actions of that kind being brought at all.

307. Supposing a plaintiff laid his damages at a sum not exceeding 20*l.* in an action of assault, would you consider that that was a case fit to be be tried in the County Court?—I think not.

308. Why not?—I think that in such a case the judge of a superior court would say that it was a fit case to be tried in the superior court. The cause of action and the whole conduct of a case of that kind is so often matter of mere personal feeling, and very often of improper feeling, that I think it is of great importance to the community that those cases should be tried with some solemnity, and should be tried with a full jury.

309. When you say that it is a matter of feeling, do you mean feeling of the plaintiff or of the defendant?—Of both.

310. If the plaintiff lays his damages only at 20*l.*, as the amount of injury which he

C. E. Pollock, Esq.

4th April 1854.

has sustained, should you think that it was not a fit case to be tried in the County Court?—I think that most of those cases are cases which would be better tried in a superior court.

311. Supposing the case of two farmers' men quarrelling, and one beating the other, and that the plaintiff lays his damages at 20*l.*, why should not that as well be tried in a small town where the County Court judge sits as be tried at Kingston, where you have the advantage of a superior judge and twelve special jurymen?—I think that the greater number of those cases are cases that had better not be tried anywhere; and therefore I do not think that the legislature is bound to give the same convenience for the trial of such actions as for the recovery of money demands.

312. Your opinion is, that where the plaintiff in such an action lays his damages at 20*l.* only, he ought not to have any court to which he can resort?—Except in certain cases in which there is some circumstance of peculiar aggravation, or some other reason, which makes it desirable that the case should be tried in a more important and a more public manner than it would be in a County Court.

313. Will you be good enough to consider the case of a mere assault arising from a quarrel between two people in a town, where the plaintiff lays his damages at 20*l.*; do you consider that he should have the right to bring an action against the person who has assaulted him, or that he should be precluded altogether from doing so?—I do not think he should be altogether precluded, but I think that if he gets 20*l.* damages, the case would be of such a nature as would justify his bringing the action in the superior court. I would say that, supposing one labourer beats another, if an amount like 5*l.* will not compensate the injury, there must then be something so aggravated about the matter, or so peculiar about the transaction, that it is better, I will not say for the immediate parties so much as for the public and the general administration of justice, that the case should be tried at the assizes.

314. Do you think that a case in which the injury was to the amount of 5*l.* only might go to the County Court?—I think so; but from my experience of those cases I think that the greater number of them had better never have been tried at all.

315. Do you mean that it is right that difficulties should be thrown in the way of the trial of such cases by means of the machinery of an expensive court?—I do think so, in certain cases. I know it is a strong proposition, but I would liken it to a class of cases that the legislature has already noticed. It is very hard if a poor man's wife or daughter is seduced, and he has not the means of going into a superior court.

316. Are we to understand you as laying down the proposition that in certain cases the expenses of a superior court ought to be thrown in the way of a man who by the hypothesis has a right of action?—I think so.

317. And that a common assault would be one of that sort?—Yes.

318. Your meaning is, that you would not give too much facility and encouragement to the bringing of actions?—That is one reason; and I think that those cases which are tried should be tried in a more solemn manner where the damages are beyond 5*l.*

319. If a person brought his plaint for 5*l.*, that would now bring him immediately within the jurisdiction of the County Court. But supposing he goes into a superior court, and by his declaration alleges damages to the amount of 100*l.*, and then recovers 40*s.*, what would be your opinion about the result of a case of that kind with reference to the costs?—That is the general result of those cases in the superior courts. In the far greater part of them the plaintiff gets under 5*l.* damages, and I think the plaintiff is properly punished by that. The truth is, that the greater number of those cases are attornies' actions, but the greater part of them fail, and so neither the plaintiff nor the attorney makes a good thing of it.

320. But, unfortunately, the plaintiff and his attorney are not the only parties punished. Is not the defendant equally punished as the plaintiff, by having to defend the case in a superior court?—He is undoubtedly by that.

321. Does not it occur to you that something in the shape of a medium course may be desirable, where the party chooses to limit his damages to 10*l.*, or 15*l.*, or 20*l.*?—My difficulty is in classifying the cases in legislating upon the subject. There are, of course, a great many cases of assault, which, whether the damages were laid at 5*l.* or at 15*l.*, being of the same class, might all be tried in the County Court; but as the amount is the only means we have of arriving at any definite classification, that is my general impression.

322. What is the peculiar advantage resulting from a more solemn inquiry in a case of assault, resulting from a quarrel between two labouring men, for example?—From the experience I have had of cases in which those actions have been tried in the County Courts, I think great evil results from two people living in the same neighbourhood meeting at a cheap tribunal, where they have their own propensities and their own views indulged, and where it is matter of enjoyment to them and to the bystanders to such an extent, that I think that those cases generally are positive evils to everybody, both to the plaintiff and to the defendant, and to the public, as examples, and also by reason of the employment of the tribunal in such matters.

323. Is not it desirable that offences of this kind should be prevented by the punishment of the wrong-doer?—My impression has always been, that in such cases it is better

C. E. Pollock, Esq.
4th April 1854.

to go before a magistrate. In the County Courts I have constantly had cases in which I have been obliged to find a verdict for 5*s.*, or 10*s.*; and I have always felt that it would be better to go before a magistrate, and that any properly minded plaintiff would have foregone his own damages and would have gone before a magistrate.

324. But it is desirable that offences of that kind should be prevented?—Decidedly.

325. Does not it tend very much to prevent the repetition of offences of that kind, that the wrong-doer should be punished?—I do not think it does when he is punished by damages being awarded against him.

326. The man may go before both tribunals, he may go before a magistrate, and he may also bring his action in the County Court?—He may. I know that practically in going before a magistrate it comes to about the same thing, by the amount of costs allowed, so that whether a man got 5*s.* damages in the County Court, or whether he went before a magistrate, where the defendant would be fined 5*s.*, and the costs allowed would be 5*s.*, it would come to about the same thing.

327. Your view is this; that you would not encourage the bringing of such actions by the facilities afforded by the County Courts, and therefore you would not give jurisdiction beyond 5*l.* in the County Court for cases of tort of that description?—That is my view.

328. Will you have the goodness to look at the excepted cases in the latter part of the 58th section?—I should answer as to those cases separately. I do not think it advisable in cases within the amount already given, that the title to any corporeal hereditament, or to any toll, fair, market, or franchise, should be put in issue in the County Court; but with respect to the validity of any devise, bequest, or limitation under any will or settlement, I think that that question ought to be disputed in the County Court, with a power of appeal.

329. What do you say with respect to malicious prosecution, libel, slander, criminal conversation, seduction, and breach of promise of marriage?—I think that in those cases there should be no jurisdiction in the County Court.

330. That is to say, that the law should remain as it is with respect to those cases?—Yes.

331. You think that the title to corporeal hereditaments ought not to be the subject of decision in the County Court?—I think not; but there are some incorporeal hereditaments with respect to which I think the County Court should have jurisdiction. I think a scheme might be drawn which would include some incorporeal hereditaments. For instance, cases of small annuities arising out of land; I think it is a hardship to persons that those cannot be sued for in the County Court.

332. Will you have the goodness to mention the cases of incorporeal hereditaments in which you think the County Courts ought to have jurisdiction?—I think that the County Courts might well have jurisdiction in actions for the obstruction of light or air, or for the diversion of or injury to water-courses, also in actions for the disturbance of common.

333. You say that you think it is desirable that certain cases with respect to incorporeal hereditaments and certain questions of title should be tried in the County Court; would there be any objection to their all being tried in the County Court, subject to appeal?—Yes; but I think that would not be advisable in cases of toll, or fair, or market, in which one decision generally decides a class of cases. In most of those cases I should say it is not advisable that they should be tried before a local tribunal, of course always assuming that the tribunal is not of the same efficiency as the superior court.

334. Even with a power of appeal?—I think not in those cases; an appeal is good to a certain extent, but I think that wherever there is any hope of the importance of the case bearing the costs it is much better to go to the higher tribunal at first.

335. Would it not be convenient to get the facts found by a judge on the spot, rather than send the parties to an assize town, where they may be kept waiting for several days?—In this class of cases they still may be tried by consent in the County Court; but we are now considering the question of right, and what is the tribunal to which the man ought to resort; I think that in all cases if it is worth a man's while to go to the superior court he should have the right to do so. A mixed question of law and of fact in settling an appeal is very difficult.

336. Are not the expenses of trying a right of way at the assizes very considerable?—They are generally cheap cases, except from the number of witnesses who would have to go to the assize town, and certainly they would not have to go so far if it were tried by the County Court.

337. The expense of witnesses is not interfered with by the late Pleading and Process Act?—No.

338. Does it not frequently occur that, after a right of way case has been tried to some extent, the judge suggests that it should be referred, and that a barrister is appointed to dispose of the case upon a reference, the expenses of which come to about ten times as much as the trial at the assizes, as far as it has gone?—Undoubtedly that frequently happens. Those are cases in which, if the parties had sense, they would themselves agree to the County Court judge having jurisdiction; but I have not often seen right of way cases referred, during the last five or six years, except where it

C. E. Pollock, Esq.

4th April 1854.

has been desirable to give to the party to whom it is referred the power of saying what should be done between the parties.

339. You refer to cases in which the judge, seeing that it is a hard case upon the one side, and inconvenient to the other, says, "Had not you better refer the case to a gentleman at the bar, who shall decide what shall be done to prevent future litigation?" Is not that generally a case in which the abstract question of right is not the only thing at issue?—Yes.

340. Might not a County Court judge easily bestow the same care upon the case and decide the matter as well, being on the spot, without all that expense and complicated machinery to which reference has been made?—I think certainly there are many cases of right of way which might be tried in the County Court. They would be very like cases of interruption of light.

341. Is it not a matter of frequent occurrence that when actions with respect to windows are brought in the superior court, the judge says, "The mere decision by the "gentlemen of the jury will not determine the future rights of these parties, they will "be left just where they were. Is it not better that some gentleman of the bar should "go and see the houses and determine what shall be done?" Now could not such cases be determined equally well, and with much less expense to the parties, by the County Court judge?—I should quite approve of that if you give the County Court judge the further power which is given in such cases to the gentleman to whom it is referred.

342. Is not that power now given by the parties at the recommendation of the judge?—Yes; and the County Court could only have the power in the same way.

343. Is not, according to the present practice, the expense of a reference so great that no person who could avoid it would consent to refer a case of that kind?—Certainly; so much so, that I should say that in nine cases out of ten, the parties settle the case rather than go to the expense of a reference before an arbitrator. I think that has become the prevailing mode of dealing with cases in the courts now. When a reference is suggested the judge says, "Do not go to the expense of a reference, but settle the case." That is the truth which the parties themselves pay for. They pay to hear the judge say that to them in Court. If you at the same time give to the County Court judge what I should recommend in other cases besides these, namely, the power of directing what should be done, if you give him some of the power of a Court of Equity, then I should say that would certainly make the County Court a most desirable tribunal. And then I think it is a mere question of amount; I would give jurisdiction up to 50*l* to the County Court, and beyond that I would give it to the superior court.

344. Then take another of the excepted cases, viz., questions as to the validity of a devise, bequest, or limitation under a will or settlement. Those you think might be disposed of in the County Court, subject to appeal?—Yes.

345. Why should not the same principle apply to cases of corporeal hereditaments?—Where it is corporeal, such as a right of common or to land, or where it is a question as to toll, fair, market, or franchise, those cases are very important, and the amount in issue is not often small, and I think it desirable that they should be tried in the superior court. One of my objections to the trial of this kind of cases in the County Courts is the absence of pleadings, or rather the absence of the elimination of issues, and therefore in framing a procedure *de novo*, I should say that for these purposes that portion of the County Court jurisdiction should be distinct, and that the procedure should not be the same as for the recovery of debts under 40*s*.; I think that in cases over 40*s*. where rights are tried, the issue should be eliminated before the parties come to trial. That would require more skill and attention in the officers, and it would be inconvenient for several reasons to try such questions at the more distant courts. I would therefore have the process improved, and I would have the more important cases tried at the more central positions. And then, after all, that would be very much the same result as would be arrived at if we shifted some of the circuits and made them more frequent in the superior courts.

346. You say you have had some experience in sitting as judge in the County Courts, both in the metropolitan and in country districts. Have you ever found any difficulty in eliminating the real question between the parties?—Not often, but I found unnecessary expense incurred, and I think occasionally imperfections in the tribunal on that account. I should say frequently.

347. Cannot the County Court adjourn a case if any doubt should appear to exist as to what the real question is, and let the parties come again; if, for instance, a case of surprise is made out?—You may do that, but then you do it at great expense and delay. I cannot understand why you make the plaintiff always state his claim and do not make the defendant state his answer. For instance, take the case of two men having a scuffle. I go into court and say, "You struck me," and I am obliged to give a sufficiently clear statement of what is my cause of action. Or if I bring an action on a bill of exchange I am bound to say what is my cause of action. But you do not in either of those two cases require the defendant to give any notice of the answer he means to set up, but allow him merely to come into court having the advantage of watching his adversary's case and then springing upon him anything he can. You ask him to confess nothing, and you give him an opportunity of making any defence he can without notice.

348. You would, for the benefit of the plaintiff, require a notice of the defendant's defence?—Yes; and it would be in one sense for the benefit of the defendant as regards costs.

349. In how many cases could you say that parties have come before you in which they were not perfectly aware, before they came, what they were going to try?—I think directly you get over 20*l.* in half the cases they do not know. I would not say they absolutely do not know it; assuming that they are both honest, they know to a certain extent what they are coming to try, but they do not know it in such a manner as to bring it as economically or as clearly before the tribunal as they might.

350. Will you mention any particular case in which you think that is likely to occur?—I will mention one case; an action for the price of a horse. The defence may be that the horse never was sold by the plaintiff to the defendant. It may be that it was sold with a warranty which was not complied with, either as to its age or its soundness, which might make it necessary to call witnesses from distant parts of the country and the plaintiff in coming into court must have all those witnesses ready. I have seen cases of that kind where all those witnesses have been prepared and ready. The defendant when he is called upon for his defence says, that he admits the claim but he is in insolvent circumstances. The judge must of course allow all those costs; or else there is this alternative, which I have known several times. A plaintiff comes into court having prepared his evidence, with the exception of some point which has been fully within the knowledge of both parties by reason of previous dealings, but which the defendant, watching at the moment, contests, and the plaintiff's cause is at an end unless you adjourn the case. In some cases it is difficult to say whether the plaintiff is entitled to an adjournment if he asks for it, but in some cases an adjournment may not be asked for, and the plaintiff has a verdict against him and then asks for a new trial. I have granted new trials in such cases, upon the ground of surprise, where I would not have done so in the superior courts, because I thought that the spirit of the County Court Acts allowed a man to come without full evidence of certain facts; of which from previous transactions between the parties he had a right to suppose that the other party would admit. I felt that in those cases I was exercising a wider discretion than any judge ought or need to have cast upon him.

351. Those instances would not have arisen in the superior court by reason of the pleading?—No.

352. Do you not think that in all cases below 50*l.* in the County Courts the two parties perfectly well know what they are disputing about?—My experience has made me think it not of so much importance as I should have originally thought; but still I think that whenever there is a case which has real points to be tried there ought to be notices on both sides.

353. Would you say so with respect to all actions of assumpsit?—I should limit it in amount. I should say, that in all actions of assumpsit above 5*l.* there should be notices. I think I should say that even beyond 40*s.* there should be notice on both sides; and there should be unlimited power to the judge, either to amend the notice or to adjourn; and it would be in his discretion to say whether the notice was sufficient. Then each party having given his notice, they would both have a fair opportunity of knowing what was in dispute.

354. Has it come within your experience to find fictitious actions brought in the County Court?—I should say certainly not; I have known fictitious defences but not fictitious actions. In my opinion, unless there is an elimination of issues, the more important business, either in amount or in complication of transactions, will never be done in the County Courts.

355. You mean up to the present extent of jurisdiction?—Yes; I think that is one of the reasons why parties do not bring their actions in the County Courts.

356. By a system of notices, you mean, in fact, pleading?—Yes.

357. Would you think it desirable to restore the system of pleadings existing previous to the Common Law Procedure Bill?—No; on the contrary, I think the Common Law Procedure Bill has only restored the old system.

358. Is not the present system of the County Courts in effect the old system?—Certainly not.

359. Was not the old system in former times of pleading *vivâ voce;* the plaintiff coming into court and saying what his case was, and the defendant saying what his case was?—At one time it was so, but the oral pleading took place before the day appointed for the trial, and then adjournments were so numerous that they became inconvenient, and it was found more convenient to have pleadings in writing beforehand. I should say that pleading was perfect at the time when the pleadings passed between the parties in writing, and at the same time they were not open to special demurrer.

360. You are of opinion, then, that if there was an elimination of the issue before coming to trial the County Courts would have a greater amount of business than they have at present?—I think so in the class of cases between 20*l.* and 50*l.* I do not think it is practicable to try them, and I do not think they are tried in the County Courts, or ever will be tried, until something of the kind is done.

361. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—I think the jurisdiction should be concurrent. I think 20*l.* is sufficient, but if the amount was raised

C. E. Pollock, Esq.
4th April 1854.

I should still make the jurisdiction concurrent above 20*l.* I am content with it as it is at present, but as there are those who think that the County Court might be more employed I would make the jurisdiction concurrent if I made it higher.

362. In all cases between 20*l.* and 50*l.* you would allow them, if they thought fit, to go into the superior court and to have their costs in the superior court?—Yes; with respect to the City Small Debts Court. The reason why a higher amount was named there was, that that Court had unlimited jurisdiction before. It was like the Palace Court, and it was a sort of compromise; the Court of Common Council consented to cut down the jurisdiction, in order to get the benefit of the new Act of Parliament.

363. Is it desirable to repeal section 128, of the 9th and 10th Victoria, chapter 95?—I should say certainly not as to the officers of the court; as to other cases, there are many individual cases in which it would be convenient, but I do not see any mode of laying down any general rule.

364. Would you be of opinion that the power which is conferred by another part of the Statute, namely, of suing a defendant in the district in which the cause of action arose, would be sufficient to render it unnecessary to continue section 128 in force?—That would not meet all the cases. Supposing a plaintiff wishes to sue a defendant residing more than twenty miles from him, where the contract was entered into within the defendant's jurisdiction; if instead of following the man twenty miles, the plaintiff prefers suing him in a superior court, I think he ought to be allowed to do so. It would be well, perhaps, to amend the act by saying, where either the defendant dwells within twenty miles of the plaintiff, or where the cause of action has arisen within the jurisdiction within which the plaintiff dwells.

365. You think it desirable so to modify section 128?—Yes.

366. But excluding all actions in which any officer of the court should be a party?—Yes; I think that is of great importance, as supporting the public efficiency of the courts.

367. What is your opinion as to the cause of parties not having more generally availed themselves of the jurisdiction, by consent, under section 17, of 13th and 14th Victoria, chapter 61?—I think there are several reasons which tend to prevent their availing themselves of that power. I think the first is, the feeling that the legal efficiency of the tribunal is not so good as that of the superior courts. I think that with those who are acquainted with the practice of the courts, the fact that no issue is eliminated is another reason. I think, also, that the circumstances of their being held in distant towns in the country, and the want of the attendance upon them of persons more skilful in law, and the want of the control of public opinion, also operate against the extended jurisdiction being exercised by them. There is another cause, and a powerful one, namely, that the attornies are not favorable to the County Courts, on the ground of costs.

368 Do you think the amount of the court fees deters them?—That question I cannot answer.

369. Do not you think there is another circumstance to which you have not alluded, namely, the way in which parties are completely put at arms length the moment they get into a dispute, that all notion of an agreement between them is out of the question?—Yes. I think the same reason operates also against the extended optional jurisdiction of the County Courts which operates against the reference of causes generally to tribunals which are created by the parties. That is a reason that over rides the whole.

370. That is an objection *in limine*?—Yes; whatever you make an exception to the jurisdiction in such a manner as to make it necessary for the parties to agree to it, it will never work; for instance, if the jury were the rule in the County Court, and if trial without jury were the exception, I think that the number of cases which are now tried without a jury would then be tried with a jury, and that the number now tried with a jury would then be tried without.

371. As it is free for the parties to have a jury or not, as they think proper, how is it that they do not have a jury?—Whenever a thing is made a matter depending upon the parties stepping out of the usual way to effect it, whether it be material or immaterial, the result will be, that the parties will not do it; and there is a still further reason when they are at arms length, so that both must agree in order to do so.

372. The natural tendency of parties is to pursue the rule and not to follow the exception?—Yes.

373. Do you think that the absence of the power of appeal, which has been lately decided by one of the courts with reference to such cases, has anything to do with the non-user of the optional clause?—Certainly not. I was not aware of that point until it was suggested in that case, and I do not think that the public and the profession were. I never heard it suggested before; I have no doubt the general impression was that there was a power of appeal.

374. Did not the rules of the court which the Chief Justice of the Common Pleas, Mr. Justice Erle, and Mr. Baron Martin, sanctioned after a careful revision, recognize the practice of appeal in such cases?—They did.

375. Therefore the established practice of the court would lead to the conclusion that there was an appeal in such cases?—Yes.

376. Consequently the non-existence of the power of appeal could not have operated upon the minds of the public to prevent the user of the jurisdiction?—Certainly not.

C. E. Pollock, Es
4th April 1854.

377. You think the two chief causes of the non-user of the optional clause are first of all the difficulty of parties getting together to agree, and also that the attornies are not favourable to it on the ground of costs?—Yes; I think that however popular a tribunal might be known to be in comparison with others, if it were necessary that both parties should agree you would have very few causes tried before it.

378. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient where the declaration required by section 121 of the 9th and 10th Victoria, chapter 95, has not been made?—No; I never found the slightest inconvenience. I do not recollect to have had, except in one or two instances, cases of large amount; parties may remove the plaint in cases where the rent or damage in question is more than 20*l.* At the time that the jurisdiction of the County Court was extended from 20*l.* to 50*l.*, the clause respecting replevin was left standing, so that in effect it is something like a concurrent jurisdiction between 20*l.* and 50*l.*

379. Has any inconvenience arisen from the present practice in interpleader where goods are taken in execution?—I should say not; I think that it has worked extremely well.

380. Complaints have been made to us from different quarters of the amount of the possession fees which attaches in these cases when any long possession takes place, and it has been suggested that it would be desirable that the period of notice of hearing the interpleader summons should be shortened. Do you see any objection to shortening that period, say to four days, and that notice should be given by the claimant to the clerk two days before the hearing day?—No; I think that would be enough. In the case of live animals it is most inconvenient. I think interpleader is peculiarly a case for speedy proceeding, because it is not like a contested claim in another case; there is no hope of the parties agreeing upon it; it is already before the court, and it is the mere working out of the court's process.

381. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—I think I would suggest an appeal in cases over 20*l.* in matters of law. My opinion with respect to appeals generally is, that the power of appeal will always give greater efficiency to the County Courts. The judge feels greater confidence and the public are better contented when they know that if they like they may appeal.

382. At present the appeal generally exists in all cases between 20*l.* and 50*l.*, and the ground of appeal is matter of law. Are you of opinion that in cases between 20*l.* and 50*l.* an appeal might be allowed upon matters of fact?—I think not.

383. Not even upon the ground of a perverse finding of the judge?—I think not; I do not see how practically that could be carried out. You can only ask for an appeal upon the report of the evidence which was tendered before the judge, who is judge of the fact as well as of the law, and the affidavits, which would give a statement of what that evidence was, would naturally be very little to be depended upon; there would be a great deal of feeling of the parties in them, great conflict; and even supposing them to be without any feeling on either side it would be impossible to arrive at the whole amount of what was working in the mind of the judge of the County Court. There might be peculiar cases of perverse verdicts in which such a power might work well; but supposing it was only in the case of a perverse verdict, I think applications to the superior court upon that ground would be very numerous. I think, upon the whole, the evil would preponderate; even in a superior court it is very dangerous to have that sort of appeal. You find that men who have told one story in the witness box will swear to another upon paper afterwards. There is another reason; the law is always accessible, but a witness may be going abroad, or may die during the interval between the trial and the application for a new trial.

384. Then we understand you to say that upon questions of fact, where the matter is submitted to a County Court judge without a jury, his finding should be final, and that there should be no appeal except upon a point of law?—Yes; I think it would be desirable to give no appeal. If one of the parties asks for an appeal and the judge thinks it proper; for instance, in some of those cases which are somewhat like the cases of toll, where, though the amount is small, the judge feels that it is establishing a principle, in those cases the judge should, as I believe is the practice in the Assistant Barristers Court in Ireland, have an opportunity of directing an appeal. There are cases in which, whatever the amount may be, in consequence of their being of a peculiar class, and of there being no express decision upon the subject, it would be desirable that there should be an appeal, one of the parties asking for it and the judge assenting to it.

385. Is the jurisdiction to give possession of small tenements under section 122 of 9th and 10th Victoria, chapter 95 found to be convenient?—I think very.

386. Would it be convenient to extend that jurisdiction to tenements of greater value where the relation of landlord and tenant exists?—I think it might be extended with safety, but at the same time I would say, that since the conveniences of proceeding in the superior courts now upon that particular head are so much greater, I doubt whether much would be gained by it; but having regard to the time which parties in the superior courts must wait before they get a judgment, I think it would be convenient.

387.—You think that the cheapness of the proceeding might be of some importance?—

C. E. Pollock, Esq.

4th April 1854.

Yes; I think it is desirable, owing to the importance of cases of that character, that the possession should be taken as early as possible after the actual determination of the tenancy.

388. Do you think it desirable to extend the jurisdiction to the amount of 100*l.* per annum?—Yes, to the amount of 100*l.* per annum. It is a jurisdiction that the magistrates possessed up to 20*l.* I think if you might give it to the magistrates up to 20*l.* you might give it to the County Court judges up to 100*l.*

389. Would it be convenient that that jurisdiction should be extended to cases of forfeiture, where the annual rent does not exceed 50*l.*?—I think it would be convenient, subject to allowing it to be optional between 20*l.* and 50*l.*, the same as in the case of the other jurisdiction. I think it is proper to reserve the right of appeal, because in cases of forfeiture nice questions of law often arise; but still there are a good many cases of simple forfeiture which are almost analogous to non-payment of rent or the determination of a tenancy. If, however, either the annual value or the rent exceeded 50*l.*, the County Court should not have jurisdiction. I say this, because there are many cases in which land, by building or otherwise, has been considerably increased in value since the letting. In the case also of under-tenants, I think that they should have a power, where the value exceeds 50*l.*, to act in the name of the mesne landlord, and obtain a removal of the proceedings into a superior court.

390. Is it desirable to repeal so much of the proviso contained in section 11 of the 13th and 14th of Victoria, chapter 61, as except judgments by default from the operation of the enacting part of the clause?—I think it is, if the costs in the County Court were reduced; but as they are at present I think not, because the County Court is now the more expensive of the two. I suppose the reason of the exception was, that it was though that if a man would not put in any defence there was no reason to protect him. Then the plaintiff, assuming that the defendant will not make any defence, has a right now to choose whatever is the cheapest remedy, and if he finds that he can get a judgment by default in the superior court for something less than in the County Court, he ought to be at liberty to take that course. I find that in the superior courts, in actions under 20*l.*, what he is allowed to endorse upon the writ, which is to include every possible charge, is 2*l.* 14*s.* in town causes, and in country causes, including the mileage, 3*l.* 2*s.* In the County Court if the sum were 19*l.*, (which, of course, is rather extreme), the entering the plaint, and the hearing, would together amount to 3*l.* 8*s.* Then he would have to attend the court, and have a great deal more trouble; in the other case he would merely have to issue his writ and the thing would be done for him.

391. But in proceedings in the superior court he would have to employ an attorney, which he need not do in the County Court?—Certainly.

392. What would the comparative expenses be in a case where the amount was 10*l.*?—Upon 10*l.* it would be 1*l.* 15*s.* 10*d.* in the one, and 2*l.* 14*s.* in the other. My answer would be, that it would be desirable to repeal that section; but I would point out to the attention of the commissioners, that at present the costs in the County Court are so regulated, that they are in those cases for the recovery of a debt above 15*l.* and under 20*l.* higher in the County Court than in the superior court, supposing that in both cases the defendant does not resist.

393. But that is comparing a suit with a trial in the one court, with a suit in which there is judgment by default in the other?—Yes; but I am confining my answer to cases where there is judgment by default, to which the question refers, and I find that judgment by default is at present cheaper, and in some cases more speedy, in the superior court.

394. Are you of opinion that the County Court should be self-supporting?—Certainly not; I consider the general fund fee to be very oppressive. In my opinion the expense of building and keeping in repair the court-houses and offices ought to be paid for out of the consolidated fund; at present the County Court general fund not only bears the whole expense of these, but passes over to the Consolidated Fund yearly a considerable surplus, thereby becoming a source of revenue. I have always considered that the true mode of providing for the expense of judicial tribunals is, to make the public pay for their establishment and permanent expenses, such as the building of court houses and the payment of judges salaries, and to make the suitors pay such expenses as are occasioned by putting the tribunals in motion, as the salaries of the superior officers and the like.

395. Would it be desirable that the County Courts should have equitable jurisdiction to a limited amount?—I think, decidedly, that they should with respect to money demands, but not to grant injunctions, compel specific performance, &c.

396. To what amount, considering it both with reference to rental and with reference to gross sums?—Equitable jurisdiction would extend to so many things. The cases which I have mostly in my mind are generally cases in which the plaintiff would be entitled to recover a sum of money in equity, but not at law. I think that in these cases the County Court judge should have jurisdiction to the same extent in equity as he would have it at law.

397. Has not he that jurisdiction now with reference to legacies?—With regard to legacies, if the defendant is executor or administrator, but not if it is a mere trust. I will give a simple illustration of that. Supposing money is left to an executor in trust to pay it

C. E. Pollock, Esq

4th April 1854.

to the plaintiff; in that case the court has jurisdiction, because though the words "in trust" are used, they merely express his implied duty as executor; but supposing a man is not an executor, and the testator says "I leave to my friend A. 50*l.* in trust, to pay my servant B.," in that case the County Court has not jurisdiction, because it is a trust, not a mere legacy. The trustee has got possession of the legacy from the executor and does not pay it over, then it is a trust. I think that whenever a person has a money claim in equity, which is not within any of the existing exceptions with reference to the County Courts, as issuing out of the land or the like, there the County Courts should have jurisdiction to the same extent as they have now at law.

398. Have you had any experience of the proceedings in Courts of Equity?—No; I have not had any practice in equity.

399. Would it be desirable to give jurisdiction in bankruptcy to the County Courts?—I think it would, if resident officers as official assignees were appointed. I think they could not do the work with the present staff.

400. Does not the clerk at present act as official assignee in insolvency?—He does; but I think it is as much as he can do, so much of his work in that capacity being necessarily done out of court. I think the clerk of the County Court should be left unencumbered to attend upon the Court while sitting, and to overlook the other courts while going upon his circuit, and generally to superintend the official routine of his office. I think that there should be a fixed official assignee resident in the place; more judges would be wanted, and they ought to be more confined within certain districts. I would not have the Bankruptcy Courts held in six different places in the same county; but the Bankruptcy Court should be held the same as the Insolvent Court now is, at one place. I think there would be an advantage in having the insolvency and the bankruptcy business in some measure united, as far as the procedure is concerned.

401. Do you think that with an increased staff and proper regulations it might be done?—I think it might. There are two reasons which lead me to that conclusion; one is, that I think business is always better done in the aggregate where you can bring together business of different classes into one court, because you have a better attendance of the profession. I think also that it would be one step towards what I trust will some day be done, that is, doing away with the present arrangement of three separate systems of bankruptcy, insolvency, and protection, and the jurisdiction and procedure being altered merely by the *status* of the insolvent. In each of these systems constant allusion is necessarily made in the statutes creating them, to the other systems. For instance, there is a bankruptcy and also a petty bankruptcy under the Protection Acts of a trader whose debts are under 300*l.* Then there is the non-trading insolvent and the non-trading petitioner for protection. All this might be done by a consolidated Act, dealing with persons as to their offences, according to what their antecedents had been. A trader would be dealt with more mercifully than a person who is not a trader. But with respect to imprisonment, I would give the power to imprison in all cases where there has been gross fraud. That would put a bankrupt in the same position as a fraudulent insolvent.

402. Would it be desirable to give jurisdiction to the County Courts in criminal matters now disposed of at quarter sessions?—I have not had sufficient experience in criminal courts to answer that question.

403. Would it be desirable to transfer to the County Courts the duty of revising the lists of voters?—I incline to think not; for this reason, the judges of the County Courts, of course, could do it efficiently, but I doubt whether the public would think they did it so efficiently, seeing that they are persons resident in and connected more or less with the district around them. Besides, the revising of the lists of voters has to be done at one period of the year, and it would throw in some cases four or five weeks continuous work upon the judge just at one period of the year, and would cause him some difficulty in the allotment of his labours. Then, I do not think it is needed. The present system of revising the lists is working satisfactorily, and the only question now is, as to the expense at which it is done. At present it is done at great expense. It is 200*l.* for each of about eighty barristers; it is between 16,000*l.* and 17,000*l.* a year.

404. Would there be danger that if a man is known to be of certain politics his opinions in revising the lists may, to a certain extent, be suspected?—Certainly; they always ask of what politics the revising barrister is.

405. Do you not think, also, that when he afterwards comes to adjudicate upon other matters unconnected with revising the lists of voters, those who had appeared before him at the revising courts might have a fear that his political leanings would operate upon his decisions in matters unconnected with politics?—Yes. I think that the giving to a local judge a jurisdiction in respect of matters necessarily involving politics might tend partly to compromise him, and also to create an unfavourable impression against his judgments, not only in the revising court but also possibly in his own court.

The witness withdrew.

H.J. Jenour, Esq.

4th April 1854.

HARRY JAMES JENOUR, Esq. examined.

406. You are high bailiff of the whole circuit of the County Courts, No. 38?—I am.

407. And you have been so ever since the courts have been established?—Yes.

408. You have attended the sittings of the County Courts ever since they have been established?—I have, with only two exceptions.

409. Would it, in your opinion, be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs unless the judge certifies that the case is fit to be tried in the superior court?—I think it would.

410. Will you state the reasons upon which you ground that opinion?—I think, in the first place, that if a plaintiff recovers less than 20*l.*, in a superior court, in a contested matter, it is not the sum recovered that is the main question, but it is the costs of that action, and therefore the verdict is of very little benefit to him if he recovers it, except that he does not have to pay the costs of the other party.

411. Supposing the verdict was for 20*l.* in the superior court, you believe that the costs to be paid by the plaintiff beyond the amount which he would receive from the defendant would exceed the amount of the verdict?—I think it would.

412. Do you see in principle any distinction between an action of tort and an action of contract, so far as jurisdiction is concerned?—I think there is a distinction, but I do not think there is sufficient distinction to justify any difference with respect to the question of jurisdiction.

413. Do you mean that you think that the same court which is capable of disposing of an action of contract to a certain amount is equally capable of disposing of an action of tort to the same amount?—I do.

414. Would it, in your opinion, be convenient that a plaintiff suing in a superior court, in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—Yes, I think so; provided there be a remunerating scale of fees to the professional man.

415. Would the existence or non-existence of such a remuneration to the professional man make any difference in the capacity of the court to dispose of the question?—None at all; but it affects the suitors. I am considering always what is beneficial to the suitors.

416. How does the remuneration of the professional man become material to consider when you are determining whether the court shall have jurisdiction in particular matters?—I mean this; that under the present system there is no allowance to a professional man, which in fact I take to be an allowance to the suitor. Under the present system, the suitor must pay his professional man a remunerating sum at all events.

417. In what court?—In either court. I think a suitor would prefer going to the County Court in most instances for actions not exceeding 50*l.*, if he did not lose by it, that is, have to pay his solicitor considerably more than the County Court allows against the other party, and more so than in actions in the superior court.

418. Is it not the principle of the County Courts not to employ professional men; is not that the rule, and is not the employment of professional men the exception?—I think so; but their non-employment is forced upon the suitor; for parties know that if they employ a professional man in the County Court, he will charge them much more than they will recover as costs. What I say is from my experience, from coming in contact with parties and hearing what they say. I think persons who are prudent do employ professional men, and that induces the other side to employ professional men also; they are afraid to trust to their own management, generally; it is too difficult for them in cases above 20*l.*

419. You mean that persons do not habitually conduct their own cases where the amount of the demand is between 20*l.* and 50*l.*?—That is what I mean.

420. And therefore they feel themselves constrained to employ an attorney?—Yes.

421. And the expenses of the employment of an attorney are so great that they would rather go into the superior court than into the County Court?—That is what I mean; the successful plaintiff in the County Court having to pay his solicitor's extra costs.

422. But do you think that that is the case in fact with reference to many cases between 20*l.* and 50*l.* which have been brought in your own County Court?—Yes.

423. Do you mean that the expenses of employing an attorney in the County Court are so great that the parties are driven into the superior court?—Yes; attornies are entitled to the same fees in the County Court as in other courts, as between attorney and client; the question is, what they get between party and party, and what they have to pay between attorney and client.

424. Are not the costs very different in the County Courts and in the superior courts?—Yes. But the attornies have a way of making it out so that the result is not very different.

425. Have you known in the instance of any action between 20*l.* and 50*l.*, what amount the plaintiff has had to pay his attorney as the costs of the attorney in that action?—I recollect an action in the County Court, where the sum of 10*l.* had been recovered, and where the plaintiff in that action authorized his attorney to receive the amount out of court, and he was told by that attorney that he had only 1*s.* 6*d.* to pay to him, the client.

426. The attorney having received the sum recovered in court?—Yes; although the costs in that case were given to the plaintiff.

H. J. Jenour, Esq

4th April 1854.

427. But the question upon which the Commissioners now wish to ask your opinion is, whether it would be convenient that a plaintiff suing in any superior court in an action of contract and recovering less than 50*l.* should be deprived of costs, as between party and party?—Yes; I think it ought to be so.

428. Then you think that the jurisdiction should be exclusive in the County Courts where the sum claimed does not exceed 50*l.*, and where the cause of action is one of contract?—Yes.

429. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I have not considered that subject sufficiently to answer it.

430. Do you think that it would be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?—I should say the same to that as to the last question.

431. Is it desirable to repeal section 128 of the 9th and 10th Victoria, chapter 95?—Yes; I think it is.

432. Have you known people put to inconvenience in consequence of that?—The greatest inconvenience and additional expense by allowing the plaintiff to go to the superior court in such cases.

433. You think it is desirable to repeal that section of the Act which unnecessarily increases the expense to which defendants are put, in consequence of the plaintiff going to a superior tribunal, where the plaintiff resides twenty miles from the defendant?—Just so.

434. Would you repeal it also as far the officers of the court are concerned?—Certainly I would.

435. Would it be desirable that the case of an officer of the court should come before his own judge?—Perhaps it would be more satisfactory to the public that it should not be tried by the judge of his court; at the same time, one reason why I would have that clause repealed is, that if an action is brought against an officer in the superior court, against the bailiff, for instance, there is generally a prejudice in the minds of the jury in trying such an action, and it is quite a chance what damages they may give, they take such different views of the injury complained of, and there is no certainty about it. If an action of that kind could be tried by a judge in a County Court it would be infinitely better for the officer. With reference to this question, also, I would refer to my first answer with respect to costs. These are generally attornies' actions; the only point they care about is getting costs; there is a great inducement to go against an officer for the sake of costs.

436. You know the section of the Act of the 13th and 14th Victoria, by which jurisdiction is given to the County Courts, by consent of the parties?—Yes.

437. What, in your opinion, is the cause of parties not having more generally availed themselves of the jurisdiction by consent?—I think, in the first place, the want of a remunerating scale of fees for professional men is one reason, and another is, the natural disinclination of parties to concede any point where a large sum of money is in dispute; I think the majority of cases tried by consent have been cases in which the defendant has been anxious to prefer a creditor, in order to defeat the judgment of the superior court In most of the cases which have been so tried there has been a friendly feeling existing between the plaintiff in the County Court and the defendant; and it has been done to defeat the judgment in the superior court.

438. Have you had any consent case on your circuit beyond the amount?—Yes.

439. How many?—I think only one, which has been tried.

440. What was the amount of that?—I think between 700*l.* and 800*l.*

441. Was that a friendly suit?—I believe it was.

442. Then when you say that it is generally so, do you merely refer to one particular case?—I do not refer only to that case; I have known other cases where it has been done on account of the expedition in the County Court being much greater than in the superior court. I have known two cases where judgment was entered up in the County Court; the plaint was entered as to-day, the service to-day, and the execution and sale to morrow; and that has defeated a judgment in the Queen's Bench, of prior date, above 1,000*l.*; and the County Court process could not be set aside.

443. How was that done?—By consent.

444. That was done before the clerk?—Yes.

445. Upon what circuit was it?—I think it was Saffron Walden; everything was done in that case to get rid of the County Court judgment, but without success.

446. Do you consider that use of the jurisdiction to be a convenience or an inconvenience?—I consider it a convenience, but I do not think that convenience of jurisdiction is generally understood.

447. Has the unlimited jurisdiction of the County Court in replevin been found inconvenient where the declaration required by section 121 of the 9th and 10th Victoria, chapter 95, has not been made?—Not that I am aware of.

448. Have you known actions of replevin that have been brought in the County Court?—Yes.

449. Have they been tried in the County Court?—They have.

450. In cases above 20*l.*?—No, not above; not tried, but entered. I will just observe

H. J. Jenour, Esq.

4th April 1854.

that it would be more convenient, in my opinion, if the clerk of the court had power to take the bond without going to the sheriff.

451. Has any inconvenience arisen from the present practice in interpleader, where goods are taken in execution?—Not on the circuit to which I belong; but I have reason to believe that inconvenience has arisen in this way; that an interpleader summons has been taken out, without the bailiff first communicating with the judgment creditor.

452. Why should he communictate with the judgment creditor?—Because the judgment creditor might say "I will not contest the matter, it is so plain;" and yet there is a sufficient reason for having levied. The bailiff might find goods in the possession of the defendant and take them, and after that a claim might be made to those goods by a third party. Then I say he ought to be compelled to communicate that claim to the plaintiff, and to ask him whether he would proceed, or whether he would withdraw the execution. I think that at present, there is sufficient protection to the bailiff by the rules of court, even although he should not give notice of claim to plaintiff, and thereby put the parties to unnecessary expense. The bailiff levies, a claim is made, and he takes out an interpleader summons without communicating with the plaintiff, who may reside at a great distance, and then the plaintiff might have the expense of the interpleader summons to pay; whereas, if the claim had been communicated to him in the first instance, he would not have required the high bailiff to take out the interpleader summons.

453. Is it the high bailiff's discretion whether he will take out the summons?—If he is discreet at all he is sure to take it out. I do not mean that he should ask the advice of the plaintiff, but only that he should inform the plaintiff, and state the circumstances to him; and if the plaintiff said "I am satisfied that it is a bonâ fide claim, I shall not press you to go on with the execution," the high bailiff should act accordingly; he would withdraw.

454. You mean that the high bailiff should, before he took out an interpleader summons, tell the plaintiff what had occurred?—Yes; probably the plaintiff would say, "Do your duty; I hold you to your duty," and nothing else. Then I should infer that he would not withdraw and I should immediately take out an interpleader summons.

455. Do you always communicate with your plaintiff in such cases?—Yes, I do.

456. Is not that the general practice?—I have heard parties complain of the want of such a practice, and I believe a statement has been sent to Lord Brougham upon that subject, complaining of unnecessary costs that a party had been put to, in consequence of the high bailiff of the court not first communicating the claim to the plaintiff.

457. How would you propose to remedy this inconvenience which you say exists?—By requiring the high bailiff to communicate the claim to the plaintiff.

458. Do you mean by sending a copy of the claim?—Yes, if he has time; if he is able to do so. Sometimes he would hardly have time to do that. I should require him to give notice in all cases of claim.

459. Have you heard of cases in which, if the bailiff had communicated to the plaintiff the circumstances which took place when the execution was executed, the plaintiff would not have gone on and asserted his claim to those goods?—I have.

460. When the high bailiff takes out a summons he serves all parties?—Except the defendant.

461. Then the execution creditor can immediately withdraw his claim and say, "I do not require you to go on?"—Yes; but the high bailiff has already created expense by taking out the interpleader summons.

462. How?—There is the service.

463. Supposing the plaintiff is served with an interpleader summons, which the high bailiff gets for nothing, and the plaintiff says, "I do not want you to go on," would the judge allow costs upon that occasion?—In that case certain costs would have been incurred, possibly by service of the interpleader summons; I believe fees are chargeable for the issuing of the summons. The high bailiff would call the attention of the judge to the circumstances at the next court day and the judge would then decide who should pay the costs.

464. If the high bailiff has done it improperly, would not he make the high bailiff pay?—I have no doubt that he would.

465. You think it is important that the plaintiff, the execution creditor, should know what circumstances occurred when the bailiff was put in possession of the goods under execution?—Yes.

466. You think that it is desirable that the high bailiff should in all cases communicate to the plaintiff the fact of the claim before he takes out an interpleader summons?—I do.

468. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—I think it desirable not to sell goods after they have been seized till the judge decides the claim upon the interpleader summons. At the same time, by section 133 of the last Bankruptcy Act, if the defendant should be made a bankrupt after the expiration of five days from the levy, the high bailiff might be responsible for the goods seized if they had not been sold; because the bankrupt law

requires that they shall be seized and sold, otherwise they would be taken by the messenger, and the high bailiff would be liable to an action for the amount if he had had time to sell.

468. Do you mean that the plaintiff could bring an action against the high bailiff for not selling?—Yes; the assignee might also bring an action against the bailiff if the goods were sold after the adjudication in bankruptcy and more than five days after levy; and if the judgment creditor upon the hearing of the interpleader summons succeeded, then I think he would have a right of action against the high bailliff for not having sold; it would, in my opinion, be desirable for the bailiff not to sell in any case till after the decision on interpleader summons.

469. But if the high bailiff was only doing his duty in not selling, could there be a right of action against him for not selling?—I think he is not bound by the act or rules to sell before the interpleader summons is heard. He is not responsible, if the defendant is made a bankrupt within five days of levy, but after five days he would be liable. There is nothing in the Act of Parliament or in the rules to justify the high bailiff in not selling. The practice is different in the County Court from what it is in the superior court, because I believe in the superior court there is a preliminary inquiry as to whether there shall be an issue or not to try the claim. Now here the high bailiff has the power of putting the law in motion without applying to the County Court.

470. Have you known any action brought against the high bailiff in such a case as that?—No; I have reason to believe that there would have been actions brought, but that the bankruptcy had occurred within five days of the levy.

471. You would suggest that, whatever may be the state of the law upon that point, the high bailiff should be protected for not selling till after the expiration of five days from the decision of the County Court judge upon an interpleader summons?—Yes.

472. If the law is sufficient to protect him now you are satisfied; if it is not sufficient you desire to see it altered to that extent?—Yes; and I would propose also to leave out the word "*not*" in Rule 145. I would leave it open to any one to claim and obtain an interpleader summons. I have a case in point where a defendant claims the goods under the Insolvent Law, and I have applied to the clerk of the court for an interpleader summons and he has refused to issue it. I am holding the money. Both sides threaten me with an action. I have endeavoured to arrange it, but the parties will not compromise.

473. You propose that the language of the rule should be so altered as to enable any person, whether the defendant or not, to be subject to an interpleader summons at the instance of the high bailiff?—Yes.

474. Have you anything further to suggest?—I would merely mention this, that in most cases the claims are contrived between the claimant and the defendant, and it has often been suggested to me that it would be better, if the claimant were called upon to give security for the costs attending the interpleader summons, so as to check the present facility for claiming the goods and staying the proceedings of the court.

475. Do you find that it happens sometimes that the claimant is induced to set up the claim by the defendant?—Yes; frequently.

476. You would recommend that he should give security for the costs?—Yes.

477. Would you require him to give security for the goods themselves?—I would not. The goods are secure; with respect to holding them and the costs of keeping them, those are matters of arrangement.

478. Your summonses are returnable like any other summonses, ten days after the service?—Yes.

479. We have had it suggested that that is too long for cases of this kind, and that it would be desirable to reduce the time from ten days to four days; would you approve of that alteration?—That could not be done under the present rules in existence, particularly in interpleader, for this reason, that the present rule requires the claimant, five clear days before the hearing, to deliver to the clerk of the court the particulars and grounds of his claim.

480. But the question assumes a corresponding alteration to be made in the time of giving the notice to the clerk. Would you see any objection to reducing the period of ten days for the service of the summons to four days, and the notice to be given by the claimant to the clerk two days before the hearing day?—I think it is very desirable to reduce the time, but I have some doubt whether four days would be sufficient; I think it would not do in country districts, where it takes two days to communicate with the parties by post, and the post cannot always be relied on.

481. What would you say to six days and three days?—I think that would be better. There is an important distinction between London and the rural districts with respect to time.

482. You think four days might be enough in London, though six days would not be too much in the country?—I think so.

483. Is the jurisdiction to give possession of small tenements, under section 122 of the 9th and 10th of Victoria, chapter 95, found to be convenient?—I think, so far as it goes very convenient indeed.

H. J. Jenour, Esq.

4th April 1854.

484—5. Would it be convenient to extend that jurisdiction to tenements of greater value where the relation of landlord and tenant exists?—Yes, I think it would. I speak upon this subject from experience. I constantly hear people say how unnecessary it is to go elsewhere where the relation of landlord and tenant does exist. There can be no doubt about it, in my opinion.

486. To what amount of rental would you extend the jurisdiction?—That is a matter which I would rather leave open, as I am not prepared to mention the amount at present.

487. Do you think it ought to be extended to cases where the rent is much larger than it is at present?—I do.

488. Is it desirable to repeal so much of the proviso contained in section 11 of the 13th and 14th of Victoria, chapter 61, as except judgments by default from the operation of the enacting part of the clause?—I have endeavoured to find out a satisfactory reason for the exception, but I cannot.

489. You think it ought to be repealed?—I do. It has been said by professional men, that if the case had been gone on with it would have been shown to have been a proper case for costs. That is the only reason I have ever heard, but I think that is not at all a sufficient ground for it.

The witness withdrew.

Adjourned to Thursday next, at twelve o'clock.

Thursday, 6th April 1854.

JOHN HERBERT KOE, Esq., in the Chair.

T. Kennedy, Esq.

Thomas Kennedy, Esq., examined.

6th April 1854.

490. You are a member of the Incorporated Law Society?—I am. I am also one of the managing committee of the Metropolitan and Provincial Law Society.

491. An application was made to the Incorporated Law Society to appoint one or two of its members to attend this Commission for the purpose of giving evidence upon the subject on which this Commission is appointed to inquire?—So I was informed; and Mr. Maugham, the secretary, requested me to attend the Commissioners.

492. You have had considerable experience of common law business?—I have had considerable experience and have devoted considerable attention to the question of the County Courts from the outset.

493. You have also had considerable experience as a practitioner in the Court of Chancery?—I have.

494. And you have attended very much to the reforms which have been lately made in the Court of Chancery?—I have.

495. You have written a book upon the subject of the practice of the Court of Chancery?—Yes; upon the general orders relating to the practice. I have also assisted the committee appointed by the Law Society, with a view to the consideration of the improvement of the Court of Chancery, in the report which they brought out, which report agrees substantially in all essential points with the recommendations of the Chancery Commissioners.

496. Would it, in your opinion, be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court?—My opinion upon that question would bear of course upon the whole principle of the County Courts. I consider that there is a better way of carrying out the object intended. I think it puts the plaintiff and the attorney in an embarrassing position in this respect, that the action is to go on, and then, when his action is disposed of, the plaintiff is to depend upon the certificate of the judge as to whether he is to be deprived of his costs or not. I think it puts both the attorney and the client in a very unfair position, because of course the attorney takes his clients directions upon it, and then he afterwards finds out when his cause is tried that he is deprived of costs. My suggestion would be this. I think the chief object of the scheme of the County Courts must be to make justice as easy and as economical as possible, and I do not object to the County Courts generally. I think it is quite clear that they must be kept up, and the only question is, whether they are put upon a proper footing, and whether the interests of creditors have been sufficiently considered in working the measure, which I think they have not. By way of preliminary remark I would observe, that the question of venue is for the most part technical, and I should say that the true test as to where a case should be tried is, to ascertain where it can be tried most conveniently and most economically, without reference to the residence either of the plaintiff or of the defendant, or to where the cause of action accrued, but

T. Kennedy, Esq.
6th April 1854.

with reference to convenience of the trial of the case itself. That being my view of the case, I should say that, as between the superior courts and the County Courts, I would allow the case to be tried in that court which would be best for the convenience of the suitor, whether plaintiff or defendant. In actions under 5*l.* I do not consider it worth while to make any alteration, but in all actions above 5*l.* I think it should be optional to the plaintiff in the first instance as to where he would go, whether he would go into the superior court or into the County Court for Yorkshire, or any other County Court in the kingdom, to recover his debt; he should be allowed to go to that which suited him best. And with regard to tort, the same rule should apply; and, therefore, I think it would not be wise to deprive a plaintiff of costs in actions of tort under 20*l.*, because in my opinion a plaintiff ought to be at liberty to go into a superior court in all matters above 5*l.*, or to any court which he thought the best court for trying his case. But of course we must not legislate wholly for the plaintiff. If you allow the plaintiff the option throughout, it would be unfair; he might use the option given him to the disadvantage of the defendant. Therefore I would give the defendant an opportunity to bring the question of removing the cause by an ordinary summons before the judge at chambers, and upon his satisfying the judge at chambers, that the action ought to be removed either to the County Court of the district or to any particular County Court, the judge should have the power of making an order to that effect, either unconditionally or upon such terms as he might think right, so that the plaintiff should not be at liberty, without sufficient reason, to take the case from the court which would be the fittest and most economical for the trial of the case, having regard to the interests of justice as between the parties. A summons before a judge is attended with very little expense. There is an attendance costing 6*s.* 8*d.*; and if it is done in London it is done at a small expense; if it is done in the County Court it might be attended with considerable expense. If a solicitor has to travel six or seven miles to a County Court of course he could not do it for 6*s.* 8*d.*; therefore I should say, that it should be done in London, by the superior courts. For instance, supposing a man brought an action for a sum above 5*l.* in a superior court, the judge should have the power, upon the application of the defendant, to stop him from going on in the superior court if should turn out upon hearing the defendant to be a fit case to do that, the result would be that the plaintiff would not be placed in the unpleasant position of having to exercise a discretion beforehand, as to where he should try his cause, trusting to the chance of whether he should get the certificate of the judge to entitle him to his costs. These observations of course would apply to an action of tort. I should propose to put that upon the same footing, that is, that if the plaintiff brought an action of tort in a superior court, the defendant should have the privilege of having it tried in the County Court if the judge thought it was a case that ought to be so tried, and vice versâ.

497. How would the judge before whom the case came upon the summons have the means of coming to the conclusion, that the action was brought in a case of damages less than 20*l.*, because the plaintiff might allege in his declaration that the damage was 500*l.*, although, in reality, the damage might not be more than 5*l.*?—That difficulty arises now; I do not put it as a question of amount. The question of amount is only in my mind an ingredient in the matter in considering the proper test as to which is the most economical and the best court for the interests of justice in which to try the case. You may in your act limit the County Courts if you please. I should not be disposed to limit it within any very narrow limits as to amount, because I think in many instances the County Court might try to a larger amount; but my object is not to make it obligatory on the suitor, but to leave it to the discretion of the plaintiff to select the court where he will try his cause, subject to the defendant having a right to apply to remove it.

498. You introduce two ingredients into it, economy and convenience; would it be more economical to try an action of tort in the superior court or in a County Court?—The County Court might be more economical, because of the expenses of fees to counsel; but if they were allowed to employ counsel in the County Courts as they are in the superior courts, possibly the expense might not be more in one than in the other.

499. Taking it as the matter stands at present, would it not be more expensive to try an action of this kind in the superior courts than in the County Courts, as the courts are at present constituted?—It must inevitably be so, because the costs are limited in the County Court to a certain amount; the scale of costs is not yet in operation, but I am supposing that the courts are put upon a proper footing. I do not then see that the question of amount should be a matter so much to be considered.

500. *Rebus sic stantibus*, is it more cheap or more dear to sue in an action of tort in the superior court than in a County Court?—It is decidedly cheaper to go into the County Court, because there are no fees to counsel and the expenses are limited; but if you ask me another question, whether that is an expedient state of things to exist, I should say no, for this reason, that I should say that it amounts to a denial of justice. You might be of opinion that house rent should be cheap, and make a law that houses shall not be let for more than 20*l.* a year. What would be the result? So with regard to County Courts. You may say that law is to be cheap, and that the defendant shall not pay more than 10*s.* for the costs of an attorney in a case of a particular amount, but it is clear that you are doing injustice to the plaintiff. Suppose a plaintiff has a debt of 10*l.*, or that he brings an action of tort for 10*l.*; then for costs between party and party you

T. Kennedy, Esq.

6th April 1854.

will allow him about a guinea, and he may probably have to spend 5*l.* or 6*l.* to get up his case, so that you actually rob him of 5*l.* or 6*l.* If the defendant is in the wrong it is a denial of justice; therefore, although you save expense you save it at the expense of the injured party.

501. Supposing he went into the superior court and recovered a verdict with costs, as between party and party, would he not in such a case as that have something like 20*l.* extra costs to pay out of his own pocket?—Not usually. There might be actions in which that might be the case, but I should say that attorneys generally are very chary of charging their clients with extra costs. Sometimes if the client gives special directions for something to be done out of the ordinary course, then, he must expect to pay for it. But I do not believe that generally, solicitors make out a bill for extra costs unless it is for something very extraordinary.

502. Are there not always in such cases things which are necessary to be done, without doing which you cannot do justice to the question in the case, but which cannot come within the costs allowed as between party and party?—If I were trying an action of 100*l.* I probably might think it worth while to incur some little expense for extra costs, but I certainly would not do so if I were bringing an action for 10*l.* or 20*l.* Unless it involved the plaintiff's character, or something more important than the mere amount of 10*l.* or 20*l.*, I should not incur any expense for extra costs. With regard to the other point, I should say that the judge who made the order for sending the cause to the superior court or to the County Court, if the plaintiff, in order to go to the superior court, claimed a larger amount of damages than he thought reasonable, might put him upon these terms:—As you think proper to make a claim of 100*l.* where, in my judgment, the damages cannot possibly exceed 20*l.*, I will make this order, that if you recover less than the amount you go for, and the judge at the trial shall so certify, you shall pay the costs. I think the difficulty might be met in that way.

503. Would not that be a very complicated course of proceeding?— It is merely giving a discretionary power to the judge of the superior court to deal with the matter in the most convenient way for the suitors.

504. Taking cases of tort generally, do you think it would be more convenient that they should go to the County Court up to the amount of 20*l.*, or that they should be compelled in all cases over 5*l.* to go to the superior court?—I think there might be an optional clause; but I should be very averse, for the reasons which I have stated, to a compulsory clause. I think there are many cases of tort under 20*l.* which would be better and more conveniently tried, and tried at less expense, in the County Court; for instance, matters originating in large towns, such as Bristol or Manchester, where all the parties reside in the same locality. I can very well conceive that there would be much less expense and great convenience in having such causes tried before the County Court judge, the successful party being allowed reasonable costs.

505. Would not there be great difficulty in making rules for these matters if you made it optional, because the judge before whom it came upon summons would have to inquire into a variety of circumstances?—Formerly, whenever a venue was laid in a county where the cause of action did not arise, the defendant used to make a common affidavit that it arose in another county, and away went the venue. Now under the Procedure Act that is only done by the order of a judge. When the order is applied for, matters of this description are brought under his cognizance, and he does not find any difficulty in exercising a discretion about them. This bears out the view which I take, that the question of venue is for the most part technical, and that it ought to depend upon the circumstances of the case rather than upon the mere question where the cause of action arose, or where the parties reside.

506. You said that you thought that it should be decided by a judge at chambers, upon summons; so that where the venue is in the county, say of Northumberland, an application must be made to him by a London agent instructed by the country attorney?—Yes; upon an affidavit prepared in the country.

507. Then in all those cases it would be necessary to have the interference of two attorneys?—Yes; but there would be no additional expense upon that account, because the agent divides the amount of his fee with the country attorney, and there is no additional expense as matters now stand; no charges is allowed for any correspondence between the agent and the principal attorney. Therefore there would be no greater expense than if one attorney only was employed, as far as the suitor was concerned.

508. But there would be the delay of instructing the attorney in the country, who would have to communicate with the London agent, and he would then have to take out a summons and to attend the hearing of that summons, and to get the judge's order after the hearing by the judge, and that order must be sent down into the country to be served upon the opposite party or his attorney?—I think a saving of time would be effected by it. A judge at chambers is sitting nearly all the year round; now the County Court judges are not sitting every day throughout the year.

509. Would not it cause great delay as compared with the time that would be taken by proceeding at once in the County Court, if the parties were living within a few miles of each other in the district of a County Court?—Of course the County Court would be more convenient if they were living within the same town; but I am looking at the majority of cases.

510. Are not the majority of cases, cases in which the parties are both residing within the same County Court district?—Though they may be in the district they may be seven or eight miles apart. Then if the attorneys have to travel seven or eight miles, or two or three miles, that must cause considerable additional expense, whereas the London agent, by having several matters to attend to at the same place, can do the business at a more moderate charge to the suitor, and yet at a better rate of remuneration to himself.

511. But in the County Court is not the employment of an attorney the exception, and the rule the non-employment of an attorney?—But the observations I am making principally apply to defended cases, and then I think the parties ought always to have the right of employing an attorney at the expense of the unsuccessful party. In undefended cases there can be no evil whatever, for in whatever court the plaintiff may bring his action the defendant has no necessity for attending the court; the distance of the court is immaterial to him; the question of expense is all that is material to him. Then, as far as the question of expense is concerned, according to the present scale of fees which is allowed in the superior court for a judgment by default, there is a very trifling difference, and sometimes it is less. With respect to actions of tort, to which the question refers, I imagine that in actions of tort an attorney is generally employed.

512. You propose that where the defendant desires to remove the case to another court he should apply to a judge at chambers, upon an affidavit. Would not that be productive of considerable delay?—I should say, decidedly not. You may from almost all parts of the country get a letter within two days' post all over England; but one day's post is the general rule. Therefore, the defendant would send up an affidavit to his attorney, and the same morning that the attorney received the affidavit he might take out a summons before the judge, which would be returnable the next day at eleven.

513. Must you not give the other party an opportunity of answering the affidavit?—That depends upon circumstances. The other party may not wish to have an opportunity of answering; he may think his case sufficient without an affidavit. But if the other party appears before the judge and says, "I have had no opportunity of answering this case, and I wish to answer it," the judge would then adjourn the summons a couple of days, or till the return of post, to enable him to get an affidavit in answer, which in that case would probably delay it three or four or five days. Then the order is made merely at the expense of a short affidavit upon each side and the attendance upon the summons.

514. Supposing the summons is applied for to-day and you obtain the summons, the party on the other side must have that summons served upon him to give him an opportunity of contesting the application for the removal of the action?—Where we want to save time we generally send a copy of the affidavit with the summons. That might be done. I do not know whether it would make much difference whether it was served in the country or in London. If you served it in London the London attorney must send it down to his client; and moreover, these applications would be made whilst the time for appearance or hearing is running, so that no time need be lost.

515. We understand your view to be, that you would not allow the parties to be confined in actions of tort to the County Courts in cases from 5*l.* to 20*l.*?—Yes.

516. But you would give a right to the plaintiff to bring his action in either court with a power to the defendant, by some arrangement, to have it removed either to the County Court or to the superior court, according as it was originally brought?—Yes; according to the most convenient place to try it.

517. You were understood to say that you see no objection to the County Courts having jurisdiction to a much higher amount, provided those courts were guided by the superior discretion of the judge at chambers, as to what tribunal should be selected as the one before which the matter should be brought?—My answer was, in answer to a difficulty that was suggested, that the judge would not be able to know the real amount at issue I said that I did not consider that the amount was the only thing to be considered, but that the whole of the circumstances ought to be taken together, and that I would give an optional right to the extent of 20*l.*, subject to the judge, on an application being made to him, taking those matters into consideration. I do not know but that I should be willing to go to 50*l.* But as far as the question of an action of tort goes, I think it might be proper to give an optional right to the plaintiff to the extent of 20*l.*

518. You do not see why an action of tort for 50*l.* should not be brought in the same way as one for 20*l.*, under the circumstances which you have suggested?—No; if the facts are so simple and the matter so clear, I do not see why the County Court should not try it, always assuming that provision will be made for giving reasonable costs to a successful party. The only drawback that I see is the question about the jury. There is a great discussion now with the respect to doing away with trial by jury. Of course in the County Courts you have not that advantage. You have five men, but of course that is very different from having twelve. When I say 50*l.*, I do not know that I would give a defendant an opportunity of depriving a plaintiff in a question of tort, which might involve a question of character, of having the verdict of twelve men.

519. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—The observations I have already made, I think, apply to this question. I do not think that in any case he ought to be deprived of costs in cases above 5*l.* I think there ought to be an optional power above 5*l.* of going to either court, subject to control by a judge at chambers; one

T. Kennedy, Esq.

6th April 1854.

of my great objections to the County Court is this:—In the first place, the plaintiff, if he has really good ground of action, can only recover a limited amount of costs, and of course to his detriment. If he seeks to recover a debt of 10*l.*, and he is obliged to pay his attorney a sum of 3*l.* or 4*l.* to recover that debt, I think that is a denial of justice to him to that extent; that is one great evil. Then the next evil is this, that by the County Courts, as they now exist, you cannot make a contract in this country, where justice is said to be administered so impartially, out of which a debt of 20*l.* arises, for this reason, that if you make it the County Court judge has the power to destroy it. A man comes to you and asks you to lend him money; you do so on the condition that it is to be repaid at a certain time. The man does not pay it and you summon him in the County Court; then the judge orders it to be paid by instalments at 10*s.* a month. You actually deprive parties of the power to make a contract for sums under 20*l.*

520. You object to the provision of the Act of Parliament which enables the judge, in his discretion, to direct the debt to be paid by instalments?—Yes.

521. Because it interferes with the right of the parties to make a contract for payment at a particular time?—Yes; you allow the judge, by an *ex post facto* decision, to rescind or alter the contract between the parties.

522. You would say that there should be immediate judgment, allowing the plaintiff to carry out execution as he pleases?—Exactly so; where is the evil of doing so? It was an evil under the old law where a man was kept in prison until he paid his debt, but now if a man should exercise his vindictiveness in this respect the facilities of getting relief are so great that there can be no great evil attending upon it. The plaintiff is himself the best judge how he is to get paid. I do not find, generally speaking, that plaintiffs do exercise their rights vindictively; they are often willing to take their debts by instalments; but it is a very different thing for the court to interpose and to alter the contract between the parties. I was told by a gentleman in a considerable way of business, "We cannot afford to do business under 20*l.* because the court makes an order "upon the debtor to pay us 10*s.* a month, when our whole profit would not be above "10*s.* or 12*s.*"

523. Would you alter the existing law which deprives a plaintiff suing in a superior court of costs when he recovers less than 20*l.*?—Yes. I think that in all matters above 5*l.* it should be optional to the plaintiff whether he will try his cause in a superior court, or whether in any particular County Court, without reference to the residence of the defendant. I consider that is another great objection to the County Courts to have their jurisdiction limited to the residence of the defendant, except by special leave of the judge in certain cases.

524. We understand you to say, that you think that in all actions for 5*l.* and upwards, whether the claim is in tort or in contract, there should be at the option of the plaintiff a concurrent jurisdiction, as between the superior court and the County Court, subject to the control of a judge of the superior court?—Yes.

525. And, you would not deprive the plaintiff of his costs in consequence of his having selected one tribunal rather than the other?—Not in cases above 5*l.*

526. You are aware that in cases between 20*l.* and 50*l.* there is a concurrent jurisdiction in the superior courts?—Yes; there it is optional, and it is no injustice.

527. Your observation does not apply to cases between 20*l.* and 50*l.*?—I only apply them to cases where it is now compulsory to go into the County Court. Perhaps I may here introduce a remark which I have to make with respect to the venue. I particularly wish to provide for those cases where parties have to travel distances, because if they have to travel seven or eight miles, and if an attorney is employed, necessarily expense must be incurred. The great objection to the County Courts appears to me to be this:—You have to go such a distance to take out your summons and to attend the hearing of the case, that plaintiffs are very often deterred from bringing their actions in the County Courts, by the necessary expense and the trouble they have in so doing. Now in towns like Bristol, or Bath, or Manchester, that does not arise; and I dare say you will find that attornies in those particular districts are very favourable to County Courts, because they can attend them without difficulty; there is no distance to travel, and they dispose of a great many cases at the same time, and being able to do that it affords them a proper remuneration. But in London you cannot do it, a client may come to you, and the defendants may reside in different districts; if you take out summonses in each of those districts in which the courts sit on different days, there is a great deal of trouble, and it is not worth while to do it, and if the summonses are returnable on the same days it is impossible to attend them; but if you could make a County Court district with several judges, within four miles radius round Temple Bar, and have the whole of those judges sitting in one locality, a plaintiff might then come and take out summonses for a whole list of debts together, and if he wished to employ an attorney it would be worth the attorney's while to attend to these matters at a very little expense to the suitor, and the thing would work practically well. And as far as the defendant is concerned, he would also have an advantage in that respect, because he might employ an attorney in the same way at less expense.

528. Is not the rule in County Courts the non-employment of attorneys, and is not the employment of attornies the exception?—But there are many cases where now, I am told by tradesmen, that they abandon their rights altogether rather than take proceedings

in the County Courts, for this reason,—that the trouble and expense of being obliged to go a distance to take out a summons, and then afterwards to attend the hearing with their books, and their witnesses, and to get up their own case, at the risk of a nonsuit, would be worse to them than the loss of the debt. A grocer, near Kennington Gate, told me that since the County Court had been in operation he had written a good many debts off his books rather than go there to recover them. He said "Before that, I used to go to "my attorney and give him a list of the debts, and he used to recover them and hand "me a cheque for the amount."

529. Cannot he do so now in the superior courts?—He goes at the risk of costs, but formerly the defendant always paid the costs; actions are now brought in the superior courts for sums under 20*l*., but what is the result? If the defendant puts in a plea the plaintiff is floored, because if he goes on, of course his costs will come to more than his debt; therefore plaintiffs really have not an opportunity of going to an attorney now, because if they sue in the superior courts they run that risk, and it is not worth an attorney's while to attend to the getting in the debts for the costs allowed in the County Courts between party and party.

530. Would not your object be, to a considerable extent, attained, if all the County Courts of the metropolis were considered as one district, so that a plaintiff residing in the Marylebone district might bring to his court a defendant who lived in the Bow or Whitechapel district, and vice versâ?—Yes; in so far as the plaintiff is concerned, that might be some advantage to him, but with the discretionary clause which I was proposing just now that would hardly answer. In undefended cases it would answer much better.

531. Putting out of question for the moment the necessity of employing an attorney, and considering only the interests of the suitors, would not the plan of making all the county court districts in the metropolis one district mitigate the inconvenience of which you have spoken?—It would mitigate it very much, but it would not remedy it to the same extent as the plan I have suggested. It would, however, mitigate it very much, because the plaintiff would say, I have so many debts to recover; I will go and take out summonses for these debts in a particular court, and I will devote a day to the recovery of those debts. It might be worth while to do it, but for a single debt it would be hardly worth while.

532. You think that the principle of having the county court districts of the metropolis as it were intercommoning, would be convenient to the suitors?—It would be convenient to the plaintiff; I can hardly say whether it would be convenient to the defendant; it might not be convenient to the defendant, because you might bring him all the way from Bow to Brompton.

353. But if it were so, would it not be a case in which the defendant had taken the trouble to go from Bow to Brompton to get the plaintiff's goods?—A great many wholesale people live in the City, and of course people go to the City for goods from all directions; and therefore a man in the City might have to go all the way to Brompton or to Bow, or even to a district further off than that.

534. If the defendant has been able to go to the plaintiff's district to get the plaintiff's goods, does not it strike you as rather reasonable that the defendant should go to the plaintiff's district to pay for them?—Decidedly; that is quite my view of the case.

535. Therefore, so far as any evil arises from the principle of the County Court jurisdiction of requiring the defendant's residence to be the forum, that evil would be mitigated by the intercommoning system referred to?—It would be mitigated as far as concerns the plaintiff; it would be a great advantage to the plaintiff in that respect.

536. Do you see any objection to giving the plaintiff this advantage?—Decidedly not. But I go further; I say, make the County Court centrical, then you meet the convenience of all parties, because if you make it a radius of four miles, a man will never have to travel more than four miles.

537. Would not the fact rather be, that you make it inconvenient to all parties, but that you only occasion a moderate amount of convenience to all parties?—Not exactly so; because if a plaintiff has a string of debts to recover he does not care whether he goes three miles to attend to them or whether he goes one, it is only a question of a shilling for a cab, and, upon the average, much saving of distance will be effected, with the additional advantages of the courts being in the centre of business.

538. The inconvenience which the plaintiff suffers in the delay in his business, and the loss of the services of his clerk, and his books, in proving his case?—Exactly.

539. Would not that be mitigated by his not having to go so far from home?—No doubt; but I think it would be much more mitigated by having a central spot.

540. You would have all the summonses issued from that central spot?—The summonses should be issued, and the causes heard there. The County Courts might sit all in one building; in fact, if the new courts are brought to Temple Bar, you might have a portion of the building appropriated to the County Courts.

541. You would take a radius of four miles for the metropolis, and put all the distance beyond that radius into other districts?—Yes; that would include the bulk of the metropolis. The advantage attending that would be this, that in those defended cases where an attorney was necessary to be employed, you would be able to secure his services at a moderate rate of remuneration, because the courts being centrical, he could attend to them and attend to his other business as well; but the difficulty now is, that the attorney

T. Kernedy, Esq.

6th April 1854.

has other business to attend to, and he cannot go away to Clerkenwell or to Marylebone to attend to one particular case. You want to have cheap justice, and if you can put it upon such a footing that an attorney can attend to it at a cheap rate, then you can have cheap justice.

542. You would give the option to the suitor to employ an attorney or not, and if he chooses to employ an attorney you think that every facility should be given for his doing so?—Yes; it should be upon such a footing that it is worth the while of an attorney to attend to it. I think that centralization assists everybody, and that upon the whole you will find that the convenience of both the plaintiff, the defendant, and the witnesses would be much suited by never having to travel more than four miles to the County Court.

543. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I think that would not be convenient. There is a power now in the County Courts of trying such questions where the parties agree to try them there, but I do not think it desirable otherwise. I think that they are questions which ought to be decided by persons who are in the daily habit of deciding such questions; but the bulk of the County Court business would not be of that nature.

544. Would you see any objection to those questions being tried by the County Courts, subject to an appeal?—I think not, unless by consent. It is not fair to the suitor to put him to an appeal, in order to get the benefit of a decision in a superior court. Again, I should be sorry to deprive the parties compulsorily of the right of having the decision of twelve men upon their case. A question upon an incorporeal hereditament might be a question of great importance. Supposing you are trying the question of a will; the will is disputed, and evidence is gone into, as in the case of the Duke of Manchester. It may be a question of title depending upon a question of fact, as well as upon a question of law. I would not allow those cases to be tried in the County Courts, because you might have some very difficult questions of fact, as well as questions of law; and I would not deprive the parties of the power of going to a superior court.

545. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?—I should give the same answer to that question as to the preceding.

546. Would you give the County Courts jurisdiction in cases of malicious prosecution? I should say subject to the same control of the judge as in the other cases.

547. To any amount?—To the amount of 20*l.*, I should say.

548. Would you in cases of libel or slander?—No; I should say not for libel or slander.

549. Or criminal conversation?—No.

550. Or seduction?—No.

551. Or breach of promise of marriage?—I should say not, because the question of character is so much involved in that. The question of a jury of twelve men comes in again there.

552. Supposing you had juries in the County Court consisting of twelve men, do you then think it would be advantageous that they should have jurisdiction in the cases which have just been mentioned?—In some of them; but libel and slander I should certainly exclude; because, besides losing the advantage of having a judge of the superior courts, who must be a man of superior attainments, to try the case, I think these matters cannot so well be tried in the locality where they arise.

553. You think that whether those cases that you have mentioned should come to the County Court would depend upon the number of jurors?—Not altogether upon that; but it would remove a great deal of my objection if twelve jurors were allowed, and if proper fees were allowed to counsel and attorneys conducting the case. My objection is chiefly to the machinery and operation of the court; if you get rid of all those objections then I am satisfied.

554. If the same machinery were given in the County Courts which exists in the superior courts you would not object to their having jurisdiction in those cases?—If you give a man the same means of protecting his rights without obliging him to pay all his own costs, whether he succeeds or not.

555. Then your opinion is, that if the machinery of the superior court were introduced into the County Court, that is to say, counsel, attorneys, and the various other ingredients of the superior court, then you see no objection to the County Court having jurisdiction in those matters so far as the judge is concerned?—In some of those matters, but not all; as to malicious prosecution for instance, I see no objection, but libel and slander I should object too.

556. Although the court had all the machinery of the superior court?—Yes.

557. And twelve jurors?—Yes, because I think the judge in the superior court must necessarily, from the pay he gets, be supposed to be a man of a different class from the judge of a County Court. Another important ingredient in considering the propriety of increasing the jurisdiction of the County Courts would be, that the judges should be better paid, by which means you would get a superior class of men. But the amount of remuneration which is now paid to the judges of the County Court does not seem to me to be large enough to command the class of men which you require for such cases.

T. Kennedy, Esq.

6th April 1854.

I am of course quite aware there are many superior men who are much underpaid; but a great many of them are not the men that would be selected if they received better remuneration.

558. Are you not aware that out of 60 appointments made, there were but 23 appointments upon which the Lord Chancellor could exercise his own discretion, and that the other 40 were gentlemen who had previous claims that the Lord Chancellor was bound to submit to?—Yes; that will not happen again, of course. All future appointments will be entirely open to the Lord Chancellor, and if you could afford a better remuneration to persons willing to accept those offices you would have a greater selection.

559. Then as the present staff is, and without alterations, your opinion would be that they ought not to have jurisdiction in those matters?—Exactly so, and decidedly so; unless the suitor has the means of employing his counsel and his attorney, and of being paid for them, without being subject to loss when he succeeds, which must be of importance to a suitor. In a case of malicious prosecution, for example, and in some other difficult actions, the suitor himself cannot conduct the case, and therefore he must go to an attorney. If you throw upon him the expenses of an attorney and counsel then those cases ought not to go to the County Court unless that objection is removed.

560. Has it occurred to you that, with regard to libel and slander, there might not be an objection as to local influences?—Exactly, I think so; that is another reason why I would not include those cases within the jurisdiction of the County Courts, because they might be better tried away from local influence; but at the same time if my view of the case were carried out, that there should be no distinct venue, except that of where the thing is best tried, the difficulty might be removed by directing it to be tried by another County Court away from the spot.

561. Is it desirable to repeal section 128 of the 9th and 10th Victoria, chapter 95?—I think not, as the County Courts are now constituted, but if the amendment which I suggested were adopted, of giving a concurrent jurisdiction above 5*l.*, of course it ought to be repealed, because it would be inconsistent with such a provision. I think it ought not to be repealed as it now stands, because I consider that the plaintiff is put by that section in a better position. I consider that in the present County Courts the plaintiff is very much injured for the benefit of the defendant.

562. What, in your opinion, is the cause of parties not having more generally availed themselves of the jurisdiction by consent, under section 17 of the 13th and 14th of Victoria, chapter 61?—I think one of the causes is, that there is not any appeal allowed. If I were advising a client upon a case I should say, do not go there, because if you consent to go there, there is no appeal; besides that, there are the objections which I have suggested already, namely, that the plaintiff cannot get his costs, and that he might not like to try his cause without twelve jurors. All those reasons which I have suggested above would apply to this question, and if those were removed I think it not unlikely that the parties would come to the County Court.

563. And that the non-existence of those incidents has prevented their coming?—Yes.

564. Do not you think that this has something to do with it; that where parties are going to law with each other, they hold one another at arms length and cannot be got to agree upon anything?—I think that if they found they could try the matter in dispute more conveniently and at less expense in the County Court, they might be willing to do so. A party would say, "I think I am right, but I do not like to go into the County Court by consent, and if I get a verdict pay my own costs." Of course where there is no substantial defence you would never get the parties to consent.

565. With regard to the parties not agreeing, there are no doubt cases in which, where the question is about a demand which the defendant will not accede to under any circumstances, he sets the other party at arm's length, and will not consent to any trial at all; but where there is any question upon which the parties may fairly differ as to the right of the one and the defence of the other, you think it possible that the parties might agree to resort to the County Court?—Yes.

The witness withdrew.

CHARLES PRESSLY, Esq., examined.

C. Pressly, Esq.

566. A suggestion has been before this Commission of the propriety and usefulness of collecting the fees in the County Courts by means of stamps. We wish to have your opinion whether you think it is practicable, and if so, whether you think it is desirable?—It is perfectly practicable, but upon the desirableness of such a measure I really can scarcely give an opinion. I do not know that I am sufficiently conversant with the proceedings of the County Courts to offer an opinion upon that subject.

567. There would be a stamp upon the summons, to begin with, and there would be stamps on the different proceedings: fifteen dies might be required. Now, there were altogether in the kingdom last year 474,000 summonses; that would be 474,000 stamps

C. Pressly, Esq.

6th April 1854.

upon one step, and it would require altogether considerably above a million of stamps upon processes in the course of the year, and it might possibly be necessary to keep accounts with all the County Court clerks. Do you see any difficulty in that being done?—I apprehend that we should not be required to keep accounts with the County Court clerks. We should supply our distributors and sub-distributors with every denomination of stamps which might be required; that would be attended with some trouble and some expense, from the additional accounts we should have to keep with our distributors, as we do in Chancery and Bankruptcy stamps. I have here the forms in which those accounts are kept by double entry, and we render to the Court of Chancery once a quarter an account of the produce of the preceding quarter, showing the stock in hand of the distributors, the amount of cash and the disbursements, and the balance is paid over to their credit at the Bank of England. The accounts are kept separate, and the money is handed over after deducting all incidental expenses.

568. Are those stamps purchased at the Stamp Office, or is it done through the medium of distributors?—Both; in the country it is chiefly by means of distributors; in London by law stationers. We have a sale office in the City, and also at the head office.

569. But in the country you supply them through the medium of your distributors?—Yes.

570. So that if this system were applied to the County Courts, one of your distributors in the country would have had say 3,000*l.* worth of County Court stamps, of which he might have sold 2,000*l.* worth, and he would have 1,000*l.* in hand, which he would return as stock in hand, and your inspector would at certain periods take the stock to see that it was correct?—Yes; we should take stock for the security of the County Courts as we do for the security of the Bankruptcy Court.

571. As between you and the distributors?—Yes.

572. Looking at the machinery of the Stamp Office, and at the machinery which would be necessary in the County Courts, could it be done easily and conveniently to the Stamp Office, or would there be such inconvenience that you would not recommend it to be adopted?—The inconvenience would not be very considerable; if it were a desirable object I do not think we ought to consider the inconvenience; we are ready to do whatever may be required if benefit to the public will arise. If it is desirable to convert the County Court fees into stamps we are quite ready to do it.

573. Do you think it would be a desirable measure to adopt unless there were some overpowering reason either for the prevention of fraud or for the greater convenience of the public to call for it?—Most undoubtedly not; because we are liable to forgery. If you are not cheated with reference to fees I see no object in converting fees into stamp duties; but if you are much exposed to fraud by the receivers of the fees undoubtedly stamp duties will be a better protection.

574. How has the collection of the stamp duty upon the proceedings in the Bankruptcy Court and in Chancery worked as far as your knowledge has gone?—Perfectly satisfactorily, I believe.

575. And with perfect security?—With perfect security. We know nothing to the contrary. The produce of the Bankruptcy stamps in 1853 was 11,419*l.*, the expense attending them being 395*l.* The Chancery stamps produced 77,289*l.*, the expenses being 1,899*l.* The principal expense is the preparation of the dies; in proportion to the number of stamps required so would be the expense. I understand that in the County Courts there would be fifteen denominations of duty; that is not a great number. There are twenty-seven denominations of duty in Chancery, and seven adhesive stamps in addition. In Bankruptcy they are not so numerous; there are, I believe, fourteen denominations of duty.

576. What would be the loss or the expense to the revenue upon 275,000*l.* worth of stamps, having to sell them through the medium of distributors?—I do not think you could reckon less than 2 per cent.; for this reason, you must give the distributor at least $1\frac{1}{2}$ per cent., and I am not sure that that is sufficient. Our distributors, in some cases, receive more than $1\frac{1}{2}$ on ordinary stamps. The public are entitled to $1\frac{1}{2}$ upon all stamps purchased from us above 30*l.* at one time; therefore the additional expense beyond the poundage you cannot reckon at less than 10s. per cent.; so that it would cost at least 2 per cent., and it would possibly be more in the first year from the preparation of the dies. If you determined upon having adhesive stamps, the manufacture of the same is very expensive; if it is a dry die, such as is ordinarily used on bills of exchange and deed stamps, the expense would not be so great.

577. Then, looking at it merely as a question of annual outlay, besides the preliminary expense of the dies, and so on, the annual outlay would be about 2 per cent. upon the whole amount of the receipts?—Yes.

578. That would be about 5,400*l.* a year?—Yes; it would be between 5,000*l.* and 66,00*l.* a year.

579. Supposing the amount of fees lost in the present mode of collecting them had been, during seven years, not 2,000*l.*, or not 1,000*l.*, would you think it right, with reference to the interests of the public, to sustain a loss of 5,400*l.* a year by the allowance of commission which would be necessary upon the sale of those stamps?—I think not; I do not think it would be worth the difference by converting the fees into stamps, subject to the possibility of forgery, to which we are always open.

580. Your opinion is, that unless there is strong ground for apprehending malpractices with reference to the collection of the fees in the County Courts to an amount which would countervail the expense that would be occasioned by the system of stamps, it would not be justifiable, with reference to the interests of the revenue, to resort to stamps instead of fees?—I think not.

581. And that nothing could justify it but a clear case of want of security under the present system?—I think so. At the same time it should be understood that we are quite ready, whatever may be the additional labour thrown upon the department, to undertake the manufacture of stamps and to supply them if the County Court Commission should think it desirable.

582. The Stamp Office would not open accounts with the County Court clerks?—It would be almost impossible to do so. We could only do it through our distributors.

583. If done at all, it must be done through the medium of the distributors?—It must.

584. When persons want stamps, do they produce money to the distributors to buy those stamps?—They do.

585. So that if a suitor or the clerk of the court wanted to get a stamp from the distributor, he must produce the money for it?—Certainly.

586. These observations would apply to all cases, whether you took the dry stamp or the adhesive stamp?—Undoubtedly.

587. Would the Stamp Office be disposed to enter into an arrangement with the County Court clerks, allowing them to send up bundles of their printed forms to be stamped, which the Stamp Office should send back again stamped; for example, a bundle of summonses?—Yes; if the County Court clerk sent the money.

588. But not without the money being sent?—Undoubtedly not.

589. And you would expect some person to bring the packet of printed forms, and to pay the money, and take them back again after being stamped?—Exactly so.

590. The Stamp Office would not take the trouble of sending them?—We should rather not have the trouble; but to attain a great object we should not object to receive them from the County Court clerks and send them back again; but I think it would be unfair to throw that upon us. We should much prefer that the same course should be adopted as in ordinary cases; the documents should be brought to the office, the money paid, and the stamps taken away; that course relieves us from the responsibility of any documents being lost.

591. Supposing a County Court clerk sent up money and wanted to open an account with the Stamp Office, that would render necessary another set of accounts, as between you and whoever might be the principal?—It would. If stamps were adopted for the County Court proceedings, I apprehend that we should pay once a week to the Bank of England to the credit of the County Court. We pay our ordinary receipts to the Bank of England every day. The receipts of the County Court might be paid in to the credit of the treasurer of the County Courts or whoever else was appointed; that could be done daily.

592. With respect to stamping printed papers, would it be inconvenient to have men ready at all times to stamp them as fast as they came in, so that they might go out again by return of post or within a short time afterwards?—That would depend upon the number sent in. If a large quantity was brought to be stamped at a late hour of the day, it might lead to great inconvenience by stopping the ordinary work in the stamping room for the public. But if they came in in the ordinary course (unless the demand was very large indeed), they could be taken away in an hour.

593. But that would necessitate an additional staff at the Stamp Office for the purpose?—It would require us to have an additional teller-in, because we must tell every sheet of paper before it goes into the stamping room; and if the stamps were very numerous it would require another stamper, and there must also be another teller-out.

594. So that, besides the commission you mentioned which would have to be paid to your distributors, it would require an increase of staff at the Stamp Office?—Yes; but I include that in the 2 per cent.

595. We understand your opinion to be, that if there were an overpowering reason in consequence of frauds in the payment of the County Court fees, it might be desirable that stamps should be resorted to, but that unless there was such a reason, you do not think it would be desirable?—That is my opinion.

596. Would you think it desirable that an expense of between 5,000*l.* and 6,000*l.* a year should be incurred to save a loss of somewhat more than 100*l.* a year?—I should think not. I think it would be desirable to let well alone; we might lose more than that amount by fraud and forgery.

597. Independently of loss by commission, there might also be losses by fraud and forgery?—There might be losses by fraud as well as by forgery.

598. Have there ever been instances of loss by forgery?—We know of none. I do not think we have much to fear from forgery. We have great protection by not allowing any persons to sell stamps but our own officers and persons licensed by the office, and we take some pains to ascertain the respectability of parties before we license them.

599. Is there any other motive that you know of which should induce one to come to

C. Pressly, Esq.

6th April 1854.

the conclusion, that it was desirable to introduce the stamp system except to prevent peculation?—None, that I am aware of.

The witness withdrew.

T. Hodgson, Esq.

THOMAS HODGSON, Esq., examined.

600. You are a solicitor?—I am.

601. You practise in Yorkshire?—In the City of York.

602. You have been a considerable time in the profession?—Twenty-three years.

603. You are also secretary to the Yorkshire Law Society?—I am.

604. Have you had occasion to consider the subject of the County Courts and their jurisdiction?—Very frequently.

605. Have you had any practice in those courts?—I have had considerable practice in them.

606. Have you had an opportunity of observing the mode in which the business has been transacted there, and have you formed any opinion as to the purposes to which that jurisdiction might be usefully applied?—Yes.

607. Will you be so good as to state whether you think it would be convenient that a plaintiff who sues in a superior court in an action of tort, and recovers less than 20*l.* should be deprived of costs unless the judge certifies that the case is fit to be tried in the superior court?—I think it would be convenient. But upon that subject I wish to remark, that parties are under this disadvantage in cases of tort in the County Courts; they very frequently consult professional advisers (and if the amount were increased to 20*l.* I have no doubt they would still more frequently consult them); but when professional advisers are employed, the parties who succeed cannot recover from the other side the costs they have so incurred. Therefore if this change were made, the disadvantage to parties going into the County Courts would be extended, unless a fair scale of allowance were made for professional assistance. If that were done I think it would be desirable to make the alteration suggested.

608. You think that if proper remuneration were given to professional gentlemen employed in actions for tort, where the claim did not exceed 20*l.*, then it would be desirable to deprive the plaintiff of costs if the judge did not certify that it was a proper case to be tried in the superior courts?—Yes; and if professional remuneration were allowed to be recovered against the losing party. I consider that essential; at present parties pay professional gentlemen themselves. Speaking of my own practice, I should decline to undertake a case unless my client would pay me. If I were requested to get the case up, I should have to see the persons that we should call as witnesses, and very frequently other persons who would not be called in consequence of their evidence not being considered useful, and to prepare the case for trial; and I think it is quite essential that the party who succeeds should recover his costs for professional assistance from the other side, as in the superior courts.

609. But irrespectively of the remuneration of the solicitor in the case, do you see any objection to the jurisdiction of the County Court being made in fact exclusive in actions of tort where the claim does not exceed 20*l.*?—I see no other objection than it would be compelling parties to go to the County Court to their disadvantage unless professional costs were allowed.

610. Do you think that in cases of tort the assistance of a professional man is more peculiarly necessary than in other actions?—Yes, I do. I believe that in practice parties more generally resort to professional men in those cases.

611. Therefore you would be of opinion that in actions of tort the jurisdiction of the County Court should not be exclusive unless these were a proper remuneration to the solicitor?—Yes, to be recovered against the losing party.

612. You consider that in those cases a proper remuneration to the solicitor should be costs between party and party, not merely between attorney and client?—Yes.

613. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.* should be deprived of costs?—To some extent my answer to the preceding question relating to actions of tort in which less than 20*l.* is recovered, is applicable to this. When the amount is made larger the party will feel it more important to himself, and will be more likely in that case to consult a professional adviser. In addition to that, I think that if such an alteration were adopted the County Court should have the power to issue process in the nature of a writ of *ca. sa.* as may now be obtained in a superior court in a case between 20*l.* and 50*l.*

614. Then you do not think that it would be desirable to give exclusive jurisdiction to County Courts in claims between 20*l.* and 50*l.* unless there was a proper remuneration to the professional man?—Precisely so.

615. And you think there should be superadded to the jurisdiction generally a power to issue a *ca. sa.* upon the judgment in the same manner as in the superior courts?—Yes, if the judge on application thought that desirable; in some instances it might be of use

616. Then you do not propose to leave it entirely to the option of the plaintiff whether

a *ca. sa.* should be issued, but that his option should be supervised by the discretion of the judge?—Either to be issued by order of the judge, or in case he make an order upon the party to pay either the entire amount at once, or by instalments, then upon the omission of payment, the plaintiff to be at liberty to issue a warrant against the goods or a process in the nature of a *ca. sa.* in cases between 20*l.* and 50*l.* My object in proposing this is that parties may find that the County Courts suit their convenience as much as the superior courts.

617. Your object being to assimilate the practice of the County Court to that of the superior court for the benefit of the parties?—Yes.

618. You are aware that at present the County Courts have no power to try questions where the title to any incorporeal or corporeal hereditament comes in dispute; are you of opinion that it would be desirable that the County Courts should have jurisdiction in cases in which such questions arose?—Yes; I think they ought to have, with the same limit as to amount as in other cases, whatever that limit may ultimately be. I see no reason why they should not have jurisdiction in such cases.

619. Would you have it subject to appeal on matters of law?—Yes; I think it should be subject to appeal when the value is above 20*l.*

620. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?—Yes; on the same grounds.

621. Subject also to a like appeal?—Yes.

622. You are aware that by section 128 of 9th & 10th Victoria, chapter 95, where parties reside at a distance from each other the plaintiff is at liberty to resort to a superior court without any check by way of costs?—Yes; in two or three instances, one of which is where the plantiff resides more than twenty miles from the defendant.

623. Do you consider it desirable to repeal that section?—Not the part of it that I have mentioned; I think it is often convenient to sue in the superior courts in the cases where the defendant resides at a distance, and more convenient than going to the court where the defendant resides.

624. You think it is better that the law should remain as it is under section 128 with reference to the residence of the parties, although there is a power to apply to sue out of the district?—Yes; I think it is desirable to retain that part of the section. The other part I am not so certain about; that is, where the cause of action does not arise wholly in the jurisdiction in which the defendant dwells. The defendant may reside in the next district to that of the plantiff, so that the latter might conveniently get to the court of the district in which the defendant resides.

625. In cases where officers of the court are concerned, would you retain the provision in the section?—I would.

626. Then you would retain the whole section?—I think upon the whole I would retain it. The second part, to which I have referred, I think is the part that there is the least necessity for.

627. You are aware of section 17, the consent section, by which parties are allowed to try almost any question of law and fact before a County Court, if they both consent?—Yes.

628. You are aware that that clause has not been made very generally available at present. Can you give any reason why that power has not been rendered more generally available?—I have a very decided opinion upon that. I think it never will be made very generally available, not on account of anything in the County Courts as such, but from the nature of things. You do not get two litigant parties before they are brought together under some compulsion, to agree upon anything, and especially a defendant will not who is conscious that there may be some claim established against him; he will not come forward to meet his antagonist till some process is served upon him, and when process is served, the court of course is selected, and there is an end of any chance of referring to the County Court.

629. In your opinion, has the deficient remuneration of gentlemen practising in the court had anything to do with the non-user of that consent power?—To a slight extent: parties having differences and having consulted their solicitors beforehand would sometimes be advised by them to refer by consent of the judge of the County Court; in other instances they would be advised to refer to arbitration. Supposing the parties were so disposed, the solicitor certainly would not have an inducement to recommend them to come to the County Court till a suitable scale of costs was provided.

630. Might not he make an arrangement with his client with respect to costs?—Yes, no doubt he could do that, and the client would pay him; but the hardship is, that the client does not get repaid by the losing party as he would if he resorted to a superior court. In my remarks generally relating to solicitors' remuneration I am speaking with reference to the interest of the client, not the solicitor, because as far as we are concerned we get paid now or we decline to undertake the business. The difference between the two courts is that the successful party in the superior court gets his outlay to his solicitor repaid, whilst in the County Court he only obtains a small sum towards it.

631. Do you think that the amount now paid to the County Court, as court fees properly so called, interferes with the use of its jurisdiction in cases by consent?—It possibly

T. Hodgson, Esq.

6th April 1854.

may to a small extent; but I think the reason which I have given prevails so extensively that the amount of the fees scarcely comes into operation.

632. You think that if parties were willing to render the consent section available the other reason respecting the amount of the court fees would not prevent it?—I think it would not actually prevent it; but they are very high, and I think they ought to be lower.

633. You are aware that unless the provisions of section 121 are complied with the jurisdiction of the County Courts is of unlimited amount. Are you aware of any inconvenience resulting from that unlimited amount of jurisdiction when not interfered with by the act of the parties?—I am not aware of any. I recollect instances where cases might have been removed in which the parties thought fit to let them go on to judgment in the County Court without removing them.

634. Has the jurisdiction when so exercised been satisfactory to the public as far as you have the means of knowing?—I think so.

635. Are you of opinion that it would be desirable that an appeal should be allowed in replevin?—I think in all cases, say above 20*l.* In fixing a limit it is difficult to give a reason why it should be 20*l.* rather than 25*l.* But I would say that when it is a matter of considerable moment to the parties I would allow an appeal in all cases. Where it is of so little moment that it is more beneficial for them to be content with the decision, whatever it may be, I would not allow it.

636. You would think it desirable that in cases above 20*l.* in replevin there should be an appeal upon matters of law?—Yes, I think so.

637. Not upon matters of fact?—I am not so certain upon that; I think not upon the whole; I think it would lead to a great deal of complication and difficulty.

638. Have you been concerned in many appeals from the County Courts?—I have not been concerned in any. There are very few appeals, if any, from the York district.

639. Have you heard of any inconvenience from the present practice of interpleader?—Very little. As far as I have seen of it I think the system has been of very great use, comparing it with circumstances that took place before that change was made. I am aware that in a few instances where parties have not been in time for the next court some additional expense has been caused by keeping possession of the goods till the following court.

640. Would you think it desirable to limit the period for which the summons must be taken out before the court?—I scarcely think so, because the rule upon the subject requires that the claimant should give five clear days' notice of the claim, with particulars. I think that in that case he ought to have the summons served upon him ten days before the court day. Possibly at first he may scarcely know what to do; he may require to consult some one upon the subject, and it would require a little interval before the particulars were prepared and delivered. In order to meet the difficulty when it took place there might be some provision that the party claiming the goods should have them delivered to him upon his giving security to return them in case of a decision requiring it.

641. If he were content to let the bailiff's man remain in possession it must abide the proper time for deciding the matter?—Yes, he might choose that course himself.

642. Would there be any objection to reducing the period from ten days to six days, and to make it three days for giving notice?—I think it would be giving too little time to the claimant.

643. Upon the whole you would rather think it desirable that the present practice should remain as respects the time?—I would.

644. Is there any suggestion that you would make as to improving the practice upon this subject?—The only suggestion that occurs to me is to provide for the party giving security, as I have mentioned.

645. That might be done by paying the money into the hands of the high bailiff?—Yes. In all cases where security is required, if the party pays the money into the hands of the high bailiff of the court I submit that it should be accepted.

646. With respect to the jurisdiction as to small tenements under section 122, you are aware that the rent or value which limits the jurisdiction of the County Court is 50*l.* Has that jurisdiction been found, in your experience, to work conveniently?—Very conveniently. I can scarcely exaggerate the convenience of it to the public.

647. Would it be convenient, that where the relation of landlord and tenant exists, the amount of the rent or value that should come within the jurisdiction of the County Court should be increased?—No doubt it would be convenient in many instances. Whether it should be increased would depend upon general considerations as to what should be the amount at which to separate the jurisdiction of the inferior courts from that of the superior.

648. Would you see any objection to allowing the same jurisdiction to be exercised in cases where the relation of landlord and tenant exists where the rent does not exceed 100*l.* a year?—I see no objection whatever. I have no doubt it would be convenient in many cases.

649. You are aware that at the present moment the jurisdiction does not clearly extend (if it extends at all) to cases where forfeiture has accrued, but only to those cases where

the tenancy has expired either by efflux of time or by notice to quit. Would you be of opinion that this jurisdiction should be extended to cases of forfeiture where the rent does not exceed 50*l.*?—Certainly. I see no reason why such cases should be excluded from the jurisdiction of the County Courts. But as, in cases of building leases, for example, the value might be very far beyond the amount of the rent, I think that such cases should be excepted from the extension of jurisdiction which is suggested.

650. What would you say to the ordinary case of mortgagor and mortgagee, the mortgagor being in possession, the money not paid, and the mortgagee wanting to get possession? Would you think it desirable that the County Court should have jurisdiction in that case limited to the amount of jurisdiction in other cases?—I see no objection to that. No doubt it would be very convenient and as suitable as a landlord recovering from his tenant.

651. As between mortgagor and mortgagee, to the extent of the jurisdiction, you would place him in the same position in which the mortgagee would be entitled to be placed by an ejectment?—Precisely.

652. You are aware that by section 11 of the extending Act of Parliament there is a proviso introduced, that judgments by default shall not come within the operation of the Act. So that if a man brings an action for 15*s.* in a superior court, and the defendant does not defend the action, he will be liable to all the costs of the superior court, although the claim may be only 15*s.* Do you think it desirable that a clause which permits such a state of things should continue?—I think that the exception is unsuitable and mischievous. Its tendency is this, to induce a plaintiff when he expects no defence, to go into a superior court in the hope that he will get judgment by default for his debt, and thus obtain his costs in accordance with that exception. The defendant then is induced to defend in order to save the costs, which he does save by defending; and, consequently, the parties are brought into litigation and into law expenses, when, if they had resorted to the County Court, there would have been none, because there being no real defence the defendant would at once have arranged or permitted judgment.

653. In such a case as that, would not it often happen that the plaintiff would abandon the proceedings when the defendant defended the action?—In some instances he might in order to save himself from being driven to further costs. If the amount were small he would in all probability.

654. Does it not sometimes occur that a plaintiff brings his action in a superior court for a small sum under 40*s.*, and then, finding that the defendant puts in an appearance he stops his proceedings and has recourse to the County Court?—I believe that is the case sometimes.

655. Are we to understand that it is your opinion that that part of section 11 which excepts judgments by default should be repealed?—I think so.

656. You are secretary to the Yorkshire Law Society. Has the subject of equitable jurisdiction in the County Courts been a subject of consideration by that society?—It has on several occasions.

657. What has been the result of that consideration, with reference to bestowing equitable jurisdiction, to a limited extent, on the County Courts?—We think it is very desirable that the County Courts should have jurisdiction in equity to a limited extent, and that the effect of it would be, not so much to take away business from the present Equity Courts, as to bring into operation a new class of business in the County Court. Parties at present do not go to the Court of Chancery in small matters; they are rather content to put up with wrongs, than incur the risk, expense, and delay of resorting to that Court, especially if they are not wealthy. The expenses are serious, and I believe it is the practice in the principal offices of solicitors (I may say throughout the country), when asked their opinion upon matters of that sort, to recommend their clients not to go the Court of Chancery especially if the means of the parties are moderate.

658. You say that, with reference to the present state of the Court of Chancery?—I do.

659. When you say "equitable jurisdiction," do you mean by that that you think it desirable to bestow on the County Court a limited equitable jurisdiction as a Court of Administration, or as a Court for the determination of rights?—Both.

660. First, as to the determination of rights, in what class of cases of an equitable nature do you think the County Court might conveniently be rendered available?—In all cases where the claim consists of a money demand; also in cases where specific performance is asked for.

661. Would you include cases of injunction?—Also in cases where an injunction was asked for within the proposed limit.

662. Then as to the administrative branch of the court, you say that in your opinion the County Courts might be rendered available also as an Administrative Court; in what cases?—It might take executorship and administration accounts. It would be a very great convenience for executors or administrators (even if the Court did not take the accounts) after they had themselves administered, to be able to bring their accounts into Court, and summon all parties interested before it, to have the accounts passed, and to have a complete discharge, if they were found correct; also partnership accounts; and the Court might be made available in the administration of trusts, and might have power to appoint parties to convey outstanding legal estates where the representative of a deceased trustee or mortgagee cannot be met with, or refuses to convey.

T. Hodgson, Esq.

6th April 1854.

663. You are aware that by what is called Headlam's Act, there is a power given for the purpose of appointing and removing trustees under certain special circumstances. Do you think that a power that might be conveniently bestowed upon County Courts?—Certainly, in cases to a moderate amount.

664. As far as your experience has gone, and as far as the information you have received from enquiring into this matter in connexion with the Yorkshire Law Society has extended, has it appeared to you that unless such power be given to the County Courts, inconvenience will result?—No doubt very great inconvenience.

665. Do you think it is amounting to injustice?—Certainly.

666. At least to the delay of justice?—To the prevention of it altogether in the cases referred to.

667. Would you confine the administrative jurisdiction of the County Court to personal estate only?—Certainly not; I would extend it to both real and personal estate, within a prescribed amount in value.

668. You think that the County Courts could sell real estate, if it were necessary for the due administration of the property?—I see no reason why they should not; it would be done at less expense by the County Courts.

669. With respect to a specific performance for conveying real estate, or an agreement for the purchase of real estate, do you think that in those cases it would be competent to the judges of the County Courts to carry it out?—I see no reason why they should not have that power. I do not see any distinction in the administration of justice in these matters between real and personal estate.

670. A question of title to real estate might arise in cases of specific performance?—Yes; but solicitors very often, in practice in small matters, dispense with many requirements of title that would be required by a conveyancer in London, or by officers of the Court of Chancery; and unless such things were very often dispensed with in small affairs, we could not get on with business at all.

671. If the purchaser were an unwilling purchaser, there possibly might be some difficulty in cases of specific performance?—Yes; but the matter being of small amount, I would leave it to the judge to determine any question that might arise.

672. To what amount did the Yorkshire Law Society consider that the jurisdiction of the County Court should be extended in these matters?—There were several opinions as to the precise amount, but I think 300*l.* was the sum ultimately agreed upon.

673. You have seen this paper before (*a paper being shewn to the witness*)?—I have.

674. Will you state shortly what it is?—This is a letter addressed to the Judge of the York County Court, signed by a great number of solicitors in Yorkshire, in favour of a jurisdiction in equity being conferred upon the County Courts.

675. Do you know the signatures to that letter?—Yes; I know the handwriting of most of them; I think I know all the parties personally.

676. Are they some of the principal solicitors in Yorkshire?—They are.

677. In all the three Ridings?—Yes; there are solicitors in all the three Ridings.

678. What is the amount to which they recommend that the jurisdiction should go?—The appointment of persons to convey outstanding legal estates, where the annual value does not exceed 30*l*; in all cases where a money demand is sought to be recovered, not exceeding 300*l*; the specific performance of contracts and the taking of executorship, administration, partnership, and other accounts, in cases not exceeding 300*l.*; the appointment of new trustees in all cases of death, incapacity, inability or refusal to act, and in which trustees are convicted of felony, also the appointment of trustees, where there are none existing, the annual value of the trust property not exceeding 30*l.*; the foreclosure and redemption of mortgages, and sale of property, subject to liens, where the principal money due on such mortgages or liens does not exceed 300*l.*

679. Do you concur in the various suggestions made in that letter?—Certainly I do; I have signed the letter.

680. Are the gentlemen who have signed that letter in considerable practice?—They are all in practice, and some of them in very considerable practice. Amongst them there is Mr. George Seymour, Solicitor to the Archbishop of York; Mr. William Gray, Solicitor to Lord Feversham and Earl de Grey; Mr. George Leeman, the Lord Mayor of York, and Solicitor to Lord Wenlock; Mr. James Russell, Solicitor to Lord Downe; Mr. William Richardson, Solicitor to the York and North Midland Railway Company, and the York, Newcastle and Berwick Railway Company; Mr. Henry Richardson, Town Clerk of York; Mr. Thomas Badger, of Rotherham, Coroner for the West Riding; and Mr. Robert Edward Smithson, Solicitor to Sir William Milner.

681. Are they, generally speaking, gentlemen in considerable general practice?—In very considerable general practice; some of them have the best practice in Yorkshire.

682. Have you considered the subject of conferring jurisdiction in bankruptcy on the County Courts?—I have.

683. What is your opinion upon that subject?—I think it should be conferred upon the County Courts. They deal with insolvency cases already; bankruptcy is insolvency, in fact, although the estates are generally larger and the cases more important; but I see no reason why the County Courts should not deal with the one as well as the other. Taking the city in which I practice, as an instance, it would be a very great convenience to all parties concerned. The bankruptcy court for that district is held at Leeds. To the

bankrupt it is extremely inconvenient and a great hardship upon him to have the bankruptcy law administered there; his books and papers are taken away from him a distance of twenty-four miles, and he is then required to make out his balance-sheet, &c. to pass his examination, and he desires to obtain his certificate; but he cannot do anything for these purposes without going over to Leeds to refer to his books. He is left with little or no money, and is obliged to ask his friends for money to enable him to travel to Leeds and to remain there at a considerable expense. If the bankruptcy law could be administered at home, or near home, it would be a great convenience to the bankrupt.

684. What is the extent of the circuit of the County Court judge at York?—He has eleven other courts.

685. Does it occur to you that any inconvenience might arise in getting petitions for adjudication opened by reason of the ambulatory nature of the County Courts?—Yes; there would be a little difficulty, but I think that might be got over. As far as I have observed, the matters required to be proved on opening. Petitions for adjudication are, generally, of a very formal character; I think in many instances that might be done before the clerk of the court in the absence of the judge. If there were any difficulty he might postpone the final decision till the judge could be consulted.

686. It is done so now, is it not?—At present, on going over to Leeds, some one will be in attendance, either a commissioner or registrar, to open whenever requisite. Sometimes it is requisite to be done without delay, because an execution may be expected.

687. Would not inconvenience sometimes arise in case you had to go to the judge of the County Court?—That would have to be provided for. There is a little difficulty in consequence of the judge not being always in attendance.

688. Could that difficulty be obviated in part by allowing the judge to perform the judicial acts necessary to institute bankruptcy proceedings whether he was within his district or without it?—Yes; I would confer upon him that power certainly. In the absence of the judge, I think in ordinary cases the clerk might decide. If it was a case of difficulty he might submit it to the judge, and the judge might make his decision, wherever he might be, upon the clerk sending the papers to him.

689. In consequence of the County Court judge being ambulatory might not delays arise?—It would be requisite to guard against that. The means I suggest would be to authorize the clerk of each court to make a conditional adjudication, or species of stop-order, which would be necessary in order to have a claim upon the estate and prevent an execution creditor from seizing. But nothing further should be done, and there should be no publication till the judge of the court had decided upon it.

690. And the subsequent adjudication should have relation back to the date of that stop-order?—Yes.

691. Does it appear to you that that would obviate the difficulty which has been suggested?—Yes; it frequently happens that a petition is prepared in a great hurry at the last moment in order to prevent an execution creditor coming upon the property.

692. It has been suggested that the non-existence of an official assignee in the County Courts would prevent the application of the jurisdiction to bankruptcy. Does it appear to you that that can be obviated?—I think the present system, with regard to official assignees, requires considerable amendment; possibly it might be amended by appointing the County Court clerks official assignees. At present creditors are put to the cost of proving their debts at a distant town, and when they have done that they receive notice from the official assignee that on certain days appointed, one day or two days a week, they may receive dividend warrants at the official assignee's office. Accompanying that notice is an authority from the creditor in blank for any one to receive the dividend warrant for him. To persons who have no particular communication with the court town and no friend there, it is extremely inconvenient to get the dividend warrant, and to parties at small places in the country who do not keep banking accounts the dividend warrant is not cash when they receive it. That is a still further annoyance.

693. The existence of the official assignee does not, in your opinion, further the convenient administration of bankrupts' estates?—I think not; if persons were appointed to perform the duties of official assignees nearer the persons interested, that is, nearer the bankrupt and nearer the creditors, it would be more convenient.

694. Do you see any objection to make the County Court clerk assignee in bankruptcy in the same manner as he is now the assignee in insolvency, in the case of an insolvent applying under the Protection Act?—I think that ought to be done.

695. The whole estate would vest in him immediately?—Yes; which would be an additional convenience, At present parties are appointed trade assignees who have the sale of the bankrupt's effects, and they have to remit the proceeds to a distant court town, and there is inconvenience in that. The necessary expenses incurred by a trade assignee are not allowed to be deducted; he has to send an account of them to be taxed, and to obtain payment of them as well as he can. Parties complain a good deal of that. The trade assignees are upon the spot, and can sell the property to the best advantage; they know who the parties are most likely to be purchasers. There is some little difficulty now in getting parties to be trade assignees who have undergone the inconvenience once or twice.

696. The having the County Court clerk as assignee in your opinion would be beneficial to the administration of bankrupts' estates?—I think so.

T. Hodgson, Esq.

6th April 1854.

697. Do you consider that there is a material distinction between the administration of an estate in bankruptcy and the administration of an estate under an intestacy or where there is an executor?—Substantially there is little difference; a court competent to administer in the one case would be competent to administer in the other.

698. Do you consider that in cases of intestacy or executorship the County Courts might have jurisdiction to the same extent as in the average cases of bankruptcy?—I think that in those cases the administration of which is now in the Court of Chancery, as well as with reference to the County Court jurisdiction generally, the limit should be with reference to the question what business should be done in the superior courts, and what should be entrusted to the inferior. Parties may differ a great deal as to what the proper limit ought to be.

699. You see no difficulty in the administration of those estates in the County Courts to the amount of 300*l.*?—None whatever.

700. Does any difficulty occur to your mind as to the working out of bankruptcy under the County Court in the locality where the adjudication was first applied for? Supposing there are twelve courts in a circuit, and supposing adjudication to take place in one of the courts, how should that ultimately be worked out with reference to the convenience of the parties, and with reference to the circumstances which might occur of the judge not coming to that court for the next month?—By appointing the first meeting at the following court day, and the meeting for the last examination at the subsequent one. It is probable the adjudication would take place on the average of cases about half-way between two court days; the times of meeting would then be about the same as we have them at present; the first meeting in about a fortnight, for the appointment of assignees; and the second a month afterwards, for the bankrupt passing his last examination. The remarks I have made with respect to bankruptcy would not apply to London, of course.

701. You apply them entirely beyond the limits of the London district?—Yes; beyond the limit within which it would be convenient for parties to come to London.

702. What is the present limit of the London district?—The present limit is very inconvenient. I believe Norfolk is included in it; but in London, where parties can get to the Bankruptcy Court with convenience, it would be more convenient to all parties concerned to have the bankruptcy administered in one place.

703. Have you at all considered the question whether it would be desirable that criminal matters which are now disposed of at Quarter Sessions should be dispatched at the County Courts?—My impression is against it; it would entirely destroy the Quarter Sessions. At present appeals on account of settlements are gone, or nearly so: very probably shortly they will be gone entirely. This would be a very important change. I am not aware that proper convenience is provided or likely to be provided for the detention of offenders in the locality of each County Court; unless that were done it would be inconvenient, as offenders would have to be sent to the County or Riding prison and then brought back again to be tried at the particular County Court. An additional reason occurs to me why at present that jurisdiction should not be conferred upon the County Courts; I should not like to see them overwhelmed with business so that it might not be well done.

704. You think that a greater amount of business should not be thrown upon them than could be conveniently dispatched?—Yes.

705. Supposing the number of County Court judges was increased, would that make any difference in your opinion upon that subject?—I think the proposed change is so important that at present I doubt whether it would be desirable. There are the difficulties in the way that I have mentioned; at the same time I am quite aware that with respect to petty larcenies the costs of prosecutions is at present very great.

706. It is to be borne in mind that it would alter the system with regard to juries?—It would.

707. Would it be desirable to transfer to the County Courts the duty of revising the lists of voters?—The County Courts might do it with great ease and convenience. I have no doubt they would do it very well, but I doubt whether it would be suitable to transfer it to them. I am principal registration agent for the city of York for one party, and also for the York polling district of the North Riding; I meet on those occasions with parties some of whom I know, and whom I consider in other respects very intelligent men, men of very correct judgment generally, but on political subjects they become excited and do not exercise the same dispassionate judgment that they do on other matters. I think there would be a danger of making the County Courts distrusted if they were to decide on such matters; not that they would justly be so on account of anything that might take place; but still parties who look at these matters in the way I have described might ascribe judgments on other subjects to political feelings when they did not exist. I should prefer keeping the registration of voters separate.

708. You are apprehensive that if political inquiries were conducted before the County Court judge, something might take place that might lead to the impression on the mind of the suitor that his judgment was biassed by political considerations?—Precisely; I think that parties should not have the opportunity of saying such a thing.

709. What is your opinion with respect to the power of appeal from the County

T. Hodgson, Esq.

6th April 1854.

Courts?—In the more important cases that come before the County Courts I think there should be a power of appeal above 20*l.*

710. Upon matters of law or matters of fact?—Upon matters of law. With reference to matters of fact I cannot speak positively; I think there would be a difficulty in providing for that. It would require the evidence to be taken very completely in all cases where a matter of that sort was to be taken before a court of appeal, and it would probably generally throw upon the judge more trouble than is really necessary.

711. Does it appear to you that a mere note of what a man swears is likely to be sufficient to enable another court to determine as to whether that man ought to be believed?—I think not; I think there would be great danger of the court of appeal being in error. The court should see the witness and his demeanour in order to form a proper opinion as to whether the witness was speaking the truth.

712. You think from your experience as a solicitor that it would be an inconvenient thing to have an appeal upon questions of fact from the decision of the judge of the County Court?—I doubt whether it would be of any advantage.

713. Have you any other suggestion to make?—I have only one, and that is, that I think the court fees are generally too high.

714. What is your opinion as to the proper mode of dealing with the remuneration of the gentlemen who practise in the County Courts?—I believe that at the time it was under the consideration of the committee of the Yorkshire Law Society they prepared and forwarded a scale to the County Court judges who were appointed to determine upon professional remuneration; but I do not recollect now the precise sums. I recollect generally that they preferred that the fees should not be numerous; that they should rather be fair fees upon the principal matters; so that there should be no chance, where practitioners were so disposed, of increasing bills unnecessarily by a multitude of items that were not essentially requisite.

715. Do you think that a lump sum should be given in each case to an attorney according to the amount of the matter that is litigated?—I do not think that in all cases would do justice; for instance, in actions of tort for small amounts there is very often a great deal more trouble in looking after witnesses, and considering the case, and determining what is best to be done before coming into court, and generally in managing the case, than there is about recovering 100*l.* or 200*l.* merely of debt.

716. Might not they take one case with another, and although one case might be much more difficult and require much more attention than another, might not a lump sum in each case afford a fair remuneration for the average of cases?—I do not think that it could be carried out, to give one amount in each case, because in some cases the trouble would be so little that a uniform sum would be really too much, and the client would be very much discontented with having to pay it.

717. It would in fact have the effect of making the man who had little to do pay for the man who had much to do?—Yes.

718. Would you think it desirable to leave it to the discretion of the judge to determine in each case what was a fair remuneration to the attorney for his trouble in the cause?—I think not entirely; there should be some scale. The judge might have power to reduce the allowance to a certain extent if the case did not require so much as might be put down in the general scale, and in other cases to increase it if he thought there were special circumstances requiring it.

The witness withdrew.

Adjourned.

Tuesday, 2d May 1854.

JOHN HERBERT KOE, Esq., Q.C., IN THE CHAIR.

C. Simpson, Esq

2d May 1854.

CHARLES SIMPSON, Esq., was called in and examined.

719. Are you the high bailiff of the York Circuit?—I am; and I have been clerk to two petty sessions in the West Riding for nearly thirty years.

720. How long have you been high bailiff of that circuit?—Ever since the County Court was first formed.

721. You attend all the courts of that circuit?—I do.

722. Had you any experience in any court antecedent to that?—I held the same situation under the Court of Requests called the Skyrack and Barkstone Ash, that is, two wapentakes in the West Riding of the county of York, and held courts at Haverford, Ockley, Selby, and Howden.

723. What was the extent of the jurisdiction of these courts?—£15.

C. Simpson, Esq.

2d May 1854.

724. Were there a great number of cases in those courts?—At first there was a great deal of business.

725. Have they been merged in the County Court?—They have. Mr. Wharton was the judge of that Court of Requests.

726. And he was afterwards judge of the County Court?—Yes; and I was appointed high bailiff.

727. How many courts have you now?—Twelve.

728. What was the extent of the jurisdiction of those courts in actions of tort?—We had no jurisdiction; it was confined to small debts.

729. Would it be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs unless the judge certifies that the case is fit to be tried in the superior court; in fact, whether the jurisdiction of the County Court should be extended from 5*l.* to 20*l.*?—I think it should. So long as we have an efficient court that is giving satisfaction to the country, which I am sure is giving satisfaction to the suitors, I really think it should.

730. Do you consider that up to 5*l.*, in actions of tort, the court has given satisfaction to suitors in the country?—I have no doubt of it.

731. It has been found beneficial generally?—It has indeed.

732. Do you see any distinction in principle between an action of tort and an action of contract?—I do not.

733. Does it strike you, then, that a court which can satisfactorily dispose of an action of contract to the amount of 20*l.* might be capable, with equal satisfaction, of disposing of an action of tort to that amount?—It is capable of it. Mixing as I have done a great deal with suitors, I am confident that that is their feeling.

734. Would you extend that to all actions of tort?—I would. I think we have an efficient court that is giving general satisfaction to all the suitors. Some solicitors in the profession find fault with it, but we never hear the parties do so.

735. You think, with regard to these actions of tort, that the judgment of the court, the mode of trial, would give satisfaction as well as if the judge were trying a case for the recovery of a debt?—It would.

736. That is as far as your experience has gone?—As far as my experience has gone, they would, I am sure.

737. You are not an attorney?—I am not.

738. How many townships are embraced in these two Courts of Petty Sessions?—About thirty to each, I think; one has twenty-eight, I think, and the other thirty-two

739. Comprising altogether about sixty townships?—About that.

740. And a very large population?—Yes, it is. I cannot say exactly what the population is; but I have here our treasurer's report, which shows almost the amount of business that is done at the separate petty sessions, and the amount of the fines paid by the different magistrates' clerks to the treasurer, which shows the amount of business nearly that is done at those places, the expense of all prosecutions, and so on.

741. In Yorkshire there are several County Courts existing?—There are.

742. Is it the general impression on the part of the public that these County Courts, of which there are five or six, have given satisfaction?—It is; the suitors in the courts, I may say, are all favourable to it; there can be no doubt about it.

743. You say the profession sometimes are not so satisfied?—We hear the profession find a little fault sometimes.

744. Do respectable solicitors practise in those courts?—They do. Perhaps I may mention as an instance of the efficiency of the court, that one firm in York, Messrs. Varvill's, have recovered 1,200*l.* of debts, and nearly the whole being in different parts of the kingdom and not confined to the City of York.

745. And which had been considered doubtful up to that time?—Yes; and this without employing any attorney.

746. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs? You know that there is a concurrent jurisdiction?—My opinion is the same as it was upon the first question, and is almost guided by it: that as we have an efficient court on the spot, I think it ought to be so. I think both plaintiff and defendant ought to be confined to that court. I think it would be to their advantage, and I think it ought to be made available for that purpose.

747. Would you make it subject to some limitation with reference to the residence of parties at a distance, and so on?—Guided by the rule which is now in existence.

748. You are perhaps aware that the costs in the superior courts are much larger than they are in the inferior court?—Yes; I do not know this from practice, I should say.

749. But you know it as a fact?—As a fact, one knows it to be so.

750. Are we to understand that you think that the jurisdiction of the County Courts should be enforced by the penalty of the deprivation of costs in the way suggested in this question?—I do.

751. Do you happen to recollect the number of cases between 20*l.* and 50*l.* in the courts to which you have been high bailiff, since you have been so?—It is published by the Government.

752. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I think it would. As I have stated, so long as we have an efficient court and officers, and members of the bar in attendance, I have thought so.

753. You think the court is an efficient one?—Yes, I do.

754. Not any particular court, but the court generally?—I mean the County Courts. I do not confine it exclusively to those courts. I have had a good deal of correspondence with several high bailiffs up in the north of England; but I am confident that what I am speaking of applies to other courts; it is not confined to these.

755. Then you think the courts might be made available for the recovery of corporeal or incorporeal hereditaments?—Yes.

756. Would you limit the amount of the property as to which they should have jurisdiction in such cases; or, rather, to what amount would you give jurisdiction, supposing jurisdiction was given at all?—I would do away with the limitation altogether.

757. Do you mean as to the amount?—Yes.

758. In point of fact, then, you would give them jurisdiction, so far as the title was corporeal or incorporeal, to the same extent and amount as they have jurisdiction in respect of debts?—Yes.

759. Do I rightly understand you to say that you think, supposing upon any amount, within the limits of the County Court jurisdiction, a question to arise as to incorporeal or corporeal hereditaments, you think the jurisdiction of the County Court should not then be excluded on that account?—I do.

760. Would you subject the decision of the County Court judge in matters of that sort to an appeal?—Yes, I certainly think so.

761. Would your answer be the same with respect to the fourth question, "Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?"—I think so.

762. And subject to the same limitations, perhaps?—Yes.

763. And of appeal?—Yes.

764. You mentioned that you had observed in your experience from the successive steps in which local courts have been extended, that there was a disposition on the part of the public to go as far as possible within the limits, and even to extend the jurisdiction beyond the limits which the law has prescribed?—Yes.

765. Do you mean by that, abandoning part of their claims?—No; certainly not abandoning their claims.

766. But is it not a fact that they do?—Yes; they do, certainly.

767. In your experience, do you find frequently that they abandon their claims so as to bring their cases within the limit of the County Court jurisdiction?—It is very frequently done.

768. Is that one of your reasons for thinking it desirable to extend the money amount of the claims to be brought within the jurisdiction of the County Court?—It is.

769. You know that by the 128th section a concurrent jurisdiction is given to the superior courts where the defendant resides twenty miles from the plaintiff, and where the material part of the cause of action does not arise within the jurisdiction of the County Court. Is it your opinion that it is desirable to repeal that clause in section 128?—I have thought so. It is desirable to repeal it.

770. Except, perhaps, with respect to the officers of the County Court; supposing one of the officers of that court was to be sued, you would not have him sued in the court in which he was an officer?—No, certainly not.

771. It is part of the law that an officer shall not be sued before his own judge; should you think it desirable that that law should still remain in force?—I think the common sense view of it seems to be, that it is better to go to another court; but we have had no experience of that. I think it should go to the superior court, or to the adjoining County Court.

772. Then, except as to the officers, you think it desirable that section 128 should be repealed?—I have thought so.

773. You recollect that by section 17 of the 13th and 14th of Victoria, chapter 61, (which is called the consent clause,) where parties agree to go to the County Court, the court would have jurisdiction to any extent. What, in your opinion, is the cause of parties not having more generally availed themselves of the jurisdiction by consent under that clause? You perhaps know that there are very few cases of that sort that have come before the court?—I do; one reason is that when the parties come together, and come so near each other as that, they come to a settlement between themselves without going into any court at all. I have admired the County Court system, because I believe it brings two men in difference together, and when you have done so, that is half of the matter. The simplicity of our proceedings is such that when two men are at variance with each other, you first get them together. I believe where the parties agree and consent they are brought together, and come to terms, and make arrangements without going to any court at all.

774. And where they do not consent, is it the fact that they hold each other at arm's length, so that as to getting any consent it is out of the question?—Quite.

C. Simpson, Esq.

2d May 1854.

775. If they are in such a state of mind respectively that they can be brought to the position of consenting, they settle without fighting at all?—They do.

776. But if they are not in such a state of mind as that, then they go on fighting, and it is impossible to get any consent or arrangement at all?—That is so.

777. Are there any other reasons you can suggest; for instance, the want of attorney's costs in those cases? Do you think that has anything to do with it?—That would give us more business.

778–9. As to the reason why you think the jurisdiction has not been rendered more generally available, do you think that the non-granting of costs to attornies in the case on a liberal scale, as in the superior courts, has operated to prevent the attornies taking cases into those courts?—I think it has; there can be no doubt of it, one has heard it so often.

780. Are you of opinion that the want of an appeal to the superior courts has had anything to do with the non-usage of this jurisdiction?—No, I think not.

781. Have you much experience in cases of replevin?—We have had a few; not many.

782. Have any of them been removed?—Not one.

783. Has any inconvenience resulted from the non-removal?—None whatever.

784. Have you heard that parties regret that they had not removed?—No, never at any time.

785. Has that been the result of your experience also in other courts?—It has.

786. Then you are of opinion that the unlimited jurisdiction of the County Courts in replevin has not been found inconvenient?—I am.

787. Where the removal has not been made?—Yes.

788. Has any inconvenience arisen from the present practice in interpleader, where goods are taken in execution?—None whatever.

789. You have had a good deal of experience in actions of interpleader?—Yes; and I think if any part of the County Court practice has given satisfaction, it is that.

790. Do you think that there should be an appeal in those cases?—No, I think not.

791. You are aware that ten days' notice must elapse between service and hearing?—I have thought that it would be better that the time should be less; three days would be sufficient, and when the parties met, if they could show good cause to the judge of any witnesses that could not be brought, or anything else, then by consent it might be adjourned. I have seen sometimes parties put to tremendous expense by our holding possession; and I have frequently gone to the solicitor, both in York and Leyburn. At Leyburn the other day we had one for 50*l.* where the creditor resided at Newcastle; the client was Mr. Stuther of the Bank; it was adjourned, and therefore it is likely that there would be twenty-eight days' possession. I said to Mr. Hamlin, Mr. Stuther's solicitor, "If "you will give me an undertaking that the goods shall all be produced, we will withdraw "directly."

792. And you saved the costs of the possession?—Yes; and I have invariably done so, where the parties are respectable gentlemen in the profession, and can be depended upon. Twenty-eight days on a small interpleader of 15*l.* or 20*l.* would eat all the amount away.

793. But taking the practice as it at present stands, if the high bailiff is disposed to do his duty, and not to avail himself hungrily of the scale of fees, does any inconvenience strike you as existing in the present practice?—None whatever.

794. Except, you say, in the lapse of time?—Yes; I think a less time than ten days would do.

795. Would four days do?—I think four days would be ample.

796. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—I have not, except what I have mentioned, the limitation of the time.

797. Do you think that it would be an improvement to give a power to the high bailiff to withdraw on taking security for the return of the goods, if it should be decided that the seizure was rightly made instead of the keeping possession?—I think it would.

798. If it were practicable?—I think so; if the parties give security, it is all the high bailiff wants, and it is all that the execution creditor wants.

799. You do not see any objection to the alternative being given?—I do not.

800. Either holding possession or giving security?—There can be no objection to it at all. I think it very desirable, because I know the class of men we have had as bailiffs.

801. You are not acquainted with actions of ejectment?—No.

802. Is the jurisdiction to give possession of small tenements under section 122 of 9 & 10 Victoria, chapter 95, found to be convenient?—Oh, yes.

803. You have had some experience in it, I suppose?—Yes. We used to have a great many cases before the magistrates. It has always been desirable; and now it is transferred to the County Courts it is done much more simply and easier than it used to be by the magistrates. I think it is one of the best provisions of the County Court system.

804. You have had a great number of cases in your courts, I suppose?—We have. I once recollect, nearly thirty years ago, a gentleman I knew, to get a pauper out of a cottage spent as much money as all his three cottages were worth before he could get

C. Simpson, Esq.

2d May 1854.

him out. That was before the jurisdiction was given to the magistrates. It has been made exceedingly useful.

805. Would it be convenient to extend the jurisdiction to tenements of greater value, where the relation of landlord and tenant exists?—I do think so.

806. You think it would be desirable to extend the jurisdiction?—I do.

807. To what amount?—I hardly know where to set the limit. If a court is competent to decide on 50*l.*, the court is competent to decide on 500*l.*, and with equal satisfaction. But it was said that it would be very dangerous. That gentlemen in the profession and others would find great fault with it I know, and they would say at once, to any observation of mine, "He is not a practical man; he is not conversant with these things, "or he would never have given that opinion." But I have always been of opinion that a court that is competent to decide on 50*l.* is equally competent to decide on 100*l.*; and if it is competent to decide on 100*l.* is it not equally competent to decide on 500*l.*?

808. Do you see any objection to extending the jurisdiction of the County Courts to cases where the tenement would let at 100*l.* a year?—No.

809. Should you think it desirable that the jurisdiction now existing under section 122 of the 9th and 10th of Victoria, chapter 95, with reference to cases of landlord and tenant, should be extended to those between master and servant?—Undoubtedly.

810. Are you of opinion that the present law, with reference to payments by instalments, ought to be interfered with?—It ought not.

811. You would rather leave it to the discretion of the judge than give the entire power to the plaintiff?—Yes.

The witness withdrew.

R. Perkins, Esq.

Richard Perkins, Esq., was called in and examined.

812. You are clerk of the York circuit?—Yes.

813. How many towns have you in that circuit?—Twelve.

814. Were you engaged in any local court before the establishment of the County Court?—My partner was clerk of the Barkstone Ash and Skyrack Court of Requests. In consequence of his ill health, the management of the court principally devolved on me.

815. You are a solicitor?—I am.

816. Have you been in practice many years?—I was admitted in 1845.

817. Have you had an opportunity of considering generally the subject of the jurisdiction of the County Court?—Yes; being chief clerk of Circuit 15, my time is almost entirely occupied in the management of County Courts.

818. Have you considered this question, whether it would be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in a superior court?—My opinion is that these courts having been constituted as recognized courts, it is desirable that they should have full scope, and that they are quite adapted to the discharge of all business which that would bring to them; and that therefore it should be compulsory upon plaintiffs to bring their actions in the County Courts for those amounts.

819. That is to the amount of 20*l.* in actions of tort?—Yes.

820. And you think that the plaintiff, unless he recovers 20*l.* in an action of tort, ought to be deprived of the costs, unless the judge certifies to the contrary?—Yes; if in the opinion of the judge who tried it in the superior court it was a proper case. One can imagine some cases of considerable importance; but the ordinary class of cases may be disposed of in the County Court, and there is no reason why the defendant should be saddled with the heaiver costs of the superior court; therefore it is desirable that the plaintiff should be deprived of costs, unless he recovered 20*l.*

821. In point of principle, do you see any difference between actions of tort and actions of contract, as to the power of the court to dispose of it? Not at all; one can hardly distinguish in many cases between the two.

822. From the experience you have had as to the working of the County Courts, does it strike you that the same court which is fitted to dispose of a 20*l.* contract claim is fitted to dispose of a 20*l.* tort claim?—Quite so.

823. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—In principle, I think the two things are the same; the reasons which apply to the one apply to the other; there is so little distinction between the two classes of cases, that the one branch would almost necessarily follow the other.

824. Then, would you make the present jurisdiction, which is now concurrent, exclusive?—I think so.

825. You mean, I apprehend, both in contract and tort?—Yes.

826. Your present answer is applied to actions of contract?—Yes.

827. Would you extend your opinion also as to actions of tort as well as of contract to 50*l.*?—The question here is limited to 20*l.*, but I do not myself see why there should not be an uniform scale. I do not see why there should be a distinction between tort and

R. Perkins, Esq.

2d May 1854

contract. The turning point originally was 5*l.* in tort and 20*l.* in contract; now it come to 20*l.* in tort and 50*l.* in contract; but I do not understand why that distinction ha ever been drawn.

828. There is no extension; the 5*l.* tort jurisdiction remains.—Yes.

829. Still, if a man can recover 6*l.* in a superior court he gets his costs?—Yes. My opinion would extend equally to that. I do not see why the jurisdiction should not be extended to 50*l.* in tort as well as in contract, subject to the discretion of the judge at Nisi Prius.

830. You think there should be an exclusive jurisdiction in the County Court, subject to the certificate of the judge?—Yes; the very last plaint I entered yesterday before leaving York was for 50*l.* tort.

831. Would you have the jurisdiction exclusive?—I would leave it to the judge to exercise his discretion; if the judge thought it a case for the superior court to try, then I would allow him to send it, taking the opinion of the judge who tried it ultimately that it was a proper case.

832. Would not that render necessary a previous application to the judge, or would you let a plaintiff go there at all risks, leaving him afterwards to the chance of the judge giving him his costs or not?—There would be a difficulty in carrying that out in practice; it might be done in the same way as a summons is taken out, making it compulsory to bring the action in the County Court, but giving the power to the plaintiff to apply to a judge at chambers (in the same way as we now apply to take out a summons to show cause why the case should not be tried before the sheriff) to show cause why that action, for some special grounds to be stated to him, should not be tried in a superior court. I would make it compulsory on the plaintiff to bring his action in the County Court in the first instance, where his claim is less than 50*l.*, and he could apply to a judge at chambers to show cause why it should not be tried in a superior court, alleging some special ground.

833. And that the proceedings thenceforth should be continued?—Yes; in the superior court.

834. Not by the commencement of another suit?—No; by certiorari or something of that sort. A judge's order would act in that way.

835. How would you deal with a defendant in such a case, supposing he said, "I do "not like the County Court," would you give him power to have it removed, beyond a certain amount on the one hand, and under a certain amount on the other, supposing it to be between 20*l.* and 50*l.*?—The only difficulty in giving it to the defendant would be this: it would be desirable that he should have the power, but I am doubtful whether it would not be exercised as a means of delay. If the judge of the superior court could have some special reasons assigned to him for removing it, I do not see why the defendant should not have the power of doing so. I think it might be moved at a trifling expense by means of a summons.

836. Supposing the order was made, the plaint could be sent to the court at the commencement of the suit?—Yes.

837. Would that be an ex parte proceeding?—No; in the same manner as you apply now to remove the venue. I am sure that it could be done for 5*l.*; it is not a matter upon which you could go into long evidence.

838. You do not see any objection to the exclusive jurisdiction as to 50*l.*?—I do not. My opinion is strongly that there should be power given to the County Courts to try both tort and contract to the amount of 50*l.*; and with the power of appeal that there now is, if anything is wrong it would be set right at once.

839. And subject to the judge's certificate?—Yes.

840. Then he must proceed in the County Court first?—Yes.

841. And you would let his success or non-success there determine whether or not he ought to have his costs?—Yes.

842. You are aware, at the present moment, by one clause in the Act of Parliament, the County Court cannot dispose of any matter in which a question arises as to the title of any corporeal or incorporeal hereditament. Are you of opinion that that exclusion from jurisdiction should continue?—No; I have seen many cases in which great injustice has arisen from the want of jurisdiction in the County Court, particularly in small matters, where the costs of the superior courts have defeated justice altogether.

843. Does any particular instance occur to your mind?—I recollect a little case; but the owner of the property considered it a great grievance. A landlord at Selby had some property adjoining another gentleman's, whose spout overhung what he considered his ground; he had made several applications; he had cut down the spout; and he had made several applications to the person who had built it to remove it; he would not do it, and he threatened to sue him in the County Court; the person who built the house claims a right to it; this man cannot afford to go and try the case in a superior court for a paltry matter of this sort; he has said he would spend 50*l.*, but he would not go to the superior court; and this is a case which constantly occurs. It would be absurd to take a case of that sort into the superior court, but still the County Court has not any jurisdiction.

844. In those cases it would seem that justice was denied?—Quite denied. Title is excluded in those cases; but there are cases in which the County Court has jurisdiction when title does come in question. In replevin, in recovery of tenements, there is jurisdiction; so that the legislature has already given it in some classes of cases.

R. Perkins, Es

2d May 1854.

845. In the Nuisances Act, for instance?—Yes; the title may be investigated there.

846. As to cases where the validity of a devise, bequest, or limitation under a will or settlement is in question, those are also excluded from the present jurisdiction. Do you think that exclusion should continue?—No, I think not. I think the County Court should have jurisdiction in those cases; but there should be the power of appeal.

847. Would you give them jurisdiction to the same amount?—Yes.

848. You mean that you would give the County Courts jurisdiction in matters of title, and other matters of a similar description, in cases where the amount of the claim was within the jurisdiction of the court?—Yes; the ordinary jurisdiction, whatever the amount may be.

849. You know section 128, by which the jurisdiction of the superior court is made concurrent where parties live twenty miles asunder. Do you think that that concurrent jurisdiction should continue, or that the jurisdiction of the County Court should be made exclusive?—I think that section should be repealed, except in those cases which refer to the officers of the court. I do not think that the officers of the court ought to sue or be sued in their own courts.

850. When you say you would repeal all that section except that part, do you mean that the officers of the court should be necessarily sued in the superior court, or that they might be sued in an adjoining County Court?—I would leave that to the plaintiff to select, so that they are not sued in their own court. If a plaintiff chooses to sue in a superior court, he should have the power of doing so.

851. Then you would leave it to the selection of the plaintiff?—Yes.

852. With respect to section 17, which is the consent clause under the extending Act, you are aware that parties have not availed themselves very much of that clause?—I think that the cases to which that applies are principally in the hands of attorneys; they are not things which the parties themselves carry out, and I think the attorneys will not bring them into the court where they have not a sufficient allowance for their attendance; that has been the great drawback to it; but I think if a fair allowance were made to the attorneys for managing these cases, the facilities which this clause affords would be more used; and there is also a difficulty in getting the parties to agree.

853. Your opinion then is, that it arises from these two causes, that the attorneys do not get sufficiently remunerated according to the scale of costs prevailing there, and also that there is a difficulty in getting parties who are in collision to agree?—Yes.

854. You are aware that in replevin there is an unlimited jurisdiction, unless the parties remove?—Yes.

855. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient?—It has not been found at all inconvenient in our district; in fact, in looking through my books, and from recollection, we have only had one instance in which there has been a removal.

856. Has that been a late case?—No, a very old case; at the early institution of the courts, and that case was settled. I think the jurisdiction in replevin altogether is very unsatisfactory; it is a very complicated remedy at present, and if it could be simplified it would be desirable. The difficulty of giving notice in the first instance in a wild country like Yorkshire is very great, because although there are replevin clerks appointed in different parts of the county, they are in fact very seldom resorted to, and parties almost invariably travel to York for the under sheriff's order to give the replevin bond. I think, when a distress is first made, if one attendance could be sufficient, the party entering into the replevin bond before the clerk of the County Court who issues the summons, it would be a great facility, and would save a great deal of expense. The present practice increases the expense very much of what is already a circuitous remedy.

857. You would make the clerks of the County Courts ex officio replevin clerks?—Yes. Another difficulty in replevin is the nominal damages that are given. One action of replevin should settle the whole question between the parties, instead of leaving them to bring their second action of trespass.

858. You would join the two?—Yes.

859. With respect to interpleader, does the present practice of the County Court with respect to interpleader appear to you to be convenient?—I think it is one of the most excellent arrangements, and the whole working of the Act is carried out in fact by the security which it gives to a plaintiff against those false claims and false assignments which were frequently set up. It was every day's practice, as soon as you got an execution, to hear it said, "Oh, he has made over," as it was called; but when cases are tried upon the spot, the thing is seen through, and that is the great benefit. Difficulties sometimes arise from the length of possession and the consequent expense; we had an instance the other day at Leyburn, where the bailiff had been twenty-two days in possession; it added very much to the costs; and it has often struck me that the rule as to the service of these summonses should be the same as of others, allowing a reasonable time; because, with the power of adjournment, if there is not a sufficient opportunity of getting up the case, time might be granted. That would save the expense in many instances; ten days is now required.

860. What number of days would you think sufficient?—I should think five days.

861. Or four days?—Yes; four days with the power of adjournment.

862. That would be incident to the power of the judge?—Yes.

863. The judge has power under any circumstances?—Yes; in the case that I spoke of,

R. Perkins, Esq.

2d May 1854.

where the bailiff had been twenty-two days in possession, an insufficient notice had been given, and that led to an adjournment in that case of month; but the parties happened to be wealthy, and they made an arrangement. The goods seized amounted to about 70*l.*, and that was deposited in court to save the expense; if the parties had not been in good circumstances there would have been a very great difficulty in coming to that arrangement.

864. Is that the case in which the parties on one side were bankers?—Yes.

865. And Mr. Hamlin was the attorney?—Yes.

866. With respect to the jurisdiction as to giving possession of small tenements, has it been convenient in practice, as far as your observation has extended?—Very convenient; but it has not been resorted to as extensively as I should have imagined; and it has always struck me that the reason is (from what I have heard from parties applying) that the costs are ill calculated. You are aware at present whatever the tenancy may be, and it is generally in weekly and monthly tenancies, the costs are calculated upon the annual value. Therefore, when a house is let at half-a-crown a week, the costs so calculated become heavy; but if the costs were calculated upon a bonâ fide tenancy by the week or month, that would meet the justice of the case; at present the costs are very heavy in small matters; in many instances, in York and in other large towns, a person takes a house for two or three weeks, and the costs in such cases in recovering possession are very heavy.

867. You say there might be a modification of that rule, where the tenancy was weekly or monthly?—Yes; I think the tenancy should regulate the scale.

868. Would you extend the jurisdiction to a greater amount or value of rent than is now within the jurisdiction of the court?—Yes; I think it might be so, because the jurisdiction is particularly guarded. There is the power of staying the warrant by giving a bond. It is particularly a case where, if anything goes wrong, the machinery rectifies it at once.

869. Would you think it desirable to subject the decision of the County Court judge in that case to an appeal?—Yes; I do not see why, if anything has gone wrong, it should not be set right.

870. To what amount of rent would you limit the jurisdiction of the court in cases of that kind?—In replevin we have unlimited jurisdiction. I do not see why, with the power of removal at once that exists in that case, it should not be unlimited also. I see no objection. The Act gives a power of removal at once, upon declaring that the rent is more than 20*l.* If the tenant thinks the notice is so bad that he can with safety resist it, and does not choose to trust to the County Court, he need simply make that declaration. I should mention a point that occurred to me in practice the other day, under that section. I was in doubt whether there was power to allow counsel and attorney's fees in attending such cases, and I think you will find that there is no power.

871. From the peculiar language of the claim?—Yes.

872. What section is it that you refer to?—The 91st, I think, as to the plaintiff not being entitled to recover where the amount recovered is not less than 5*l.*

873. It contemplates the recovery of money only?—Yes. I think it is not applicable, but I have been told that costs have been allowed in some County Courts.

874. It would seem that if attorney and counsel are to be employed, it would be in such a case?—It is so; they are peculiarly cases of that sort. The court fees are regulated by Act of Parliament.

875. But nothing is said about that?—No; in the table of fees which are payable it provides for the tenement and replevin cases, but nothing is said as to attorneys and counsel.

876. With respect to the question 12, would you extend the jurisdiction to cases of forfeiture if the annual rent does not exceed 50*l.*?—Yes; there was a case tried a year or two ago, where a market garden was let under a special lease, with covenants as to proper management. It was turned to quite a different purpose; meadow land was ploughed up, and other alleged breaches of covenant committed. An action was brought to recover possession; an objection was taken that no notice was given—the plaintiff was relying upon forfeiture—and he was nonsuited. The place was completely spoiled; he has never got any rent since, and the party is not worth suing; he was believed to be a man of sub stance, but he turned out to be a pennyless fellow. I believe the owner has got possession now, but it is at least two years since proceedings were taken, and it is only recently that he has got possession. He lost a great deal of rent. If he had had the power of recovering it in the County Court it would of course have been a great advantage to him; it was upon the ground that forfeiture did not give the County Court jurisdiction, that he was prevented from having that advantage.

877. Will you apply your mind to a consideration of a class of cases which may be conceived with regard to land let out originally on lease, say at 50*l.* a year, and where the land is built upon to a large amount, and then by contrivance between the landlord and the sub-lessee, that lease is let drop?—Those are cases in which clearly there is a remedy existing in the superior court.

878. You would give jurisdiction in cases of forfeiture where the rent received or the value at the time of forfeiture did not exceed a certain amount?—Yes.

879. What amount would you say, 100*l.* at the time of forfeiture?—Yes.

880. You know that judgments by default are excepted from the operation of the s. 11. of the 13th & 14th Vict. c. 61 ; do you think it desirable that should be repealed ?—I think it follows much the same course as my answer to the first question, that if the courts are properly looked upon as recognized courts, all proceedings for claims to that amount should be in those courts.

881. Then you think it desirable that that clause should be repealed ?—Yes ; I think the courts have worked amazingly well. Attornies will sometimes grumble and say, "We get nothing at the County Courts," but we never hear of any denial of justice or any complaints from the parties themselves.

882. Do you see any objection to limit the power for making orders for sums payable by instalments in sums above 10*l.* without the consent of the plaintiff ?—I think the entire discretion should be limited to 10*l.*, and orders for instalments beyond that amount should be by consent of the plaintiff.

883. Do you think it desirable to introduce the payment of fees in court by stamps ?—No ; I think the system of books is admirable, and operates as a check, which is the only object of stamps, to keep a correct check. That correct check is supplied very admirably at present. The system of book-keeping is excellent. There are certainly a great many entries necessary, but the check is so good and so perfect, that it quite repays the trouble.

884. At the present moment by your system of books can you discover whether any defalcation exists at all upon the part of the clerks ?—It is impossible for any defalcation to exist without discovering it.

885. You think that you could discover it ?—You could.

886. Even the smallest amount ?—Even the smallest amount. In checking my clerks' books, which I do periodically, I must see it.

887. Is there any other purpose to which you think the issuing of stamps could be applied than checking the defalcations of the clerks ?—No ; I cannot conceive that there should be any other object.

888. And that object is attained now ?—Yes, perfectly.

889. Have you formed any opinion as to whether it would be desirable that a limited equitable jurisdiction should be conferred upon the County Court ?—I think it is quite as loudly called for as was the original jurisdiction in debts. The claims enforced in equity are in a worse condition than the small debts before the passing of the Act, because there used to be the old sheriffs courts which were resorted to in small matters of equity, but now there is no remedy whatever ; you must take what course you can.

890. Are we to understand that you are in favour of conferring a limited jurisdiction in equity upon the County Courts ?—Yes.

891. Do you mean an equitable jurisdiction in all respects in the same manner as it is possessed and exercised by the superior courts of equity, or do you mean that you would only confer some branches of equitable jurisdiction on the County Courts ?—The leading branches, I think, require a special jurisdiction in the Court of Chancery, as in cases of infants and wards.

892. And specific performance ?—Yes ; there might, perhaps, be some objection to carrying it to its full extent, but for all ordinary purposes for which one resorts to equity, I think as to small amounts it might be well worked out by the County Court.

893. Where the claim is of a monetary nature, and the difficulty in obtaining the satisfaction of that claim arises from the County Court not having an equitable jurisdiction, do you think in those cases it would be inconvenient to let the County Court have jurisdiction ?—It would be most desirable; it is called for by the profession generally, and by claimants constantly.

894. Anything in the nature of a money claim ?—Yes.

895. Or in the substitution of trustees ?—Yes ; anything of that sort is much better done on the spot where the parties are known ; that, I think, is peculiarly desirable ; at present matters of this sort are managed by affidavit, and the best drawn affidavit will often carry the appointment of a bad trustee.

896. Is there any other branch which occurs to you which you think might be conveniently bestowed upon the County Court ?—There are many others; it would be very desirable if injunctions could be granted where the injury is immediate, and where the delay of obtaining an injunction is great ; in cases of ploughing up land, cutting timber, and waste generally, if the court had an equitable jurisdiction I think great benefit would result from it.

897. To what amount would you think it desirable to give jurisdiction ?—£300, I should say.

898. The Yorkshire Law Society, in their communications, have proposed to limit it to 300*l.* where it is a total sum, and 30*l.* a year where it is an annual sum. Do you concur in that ?—I think that is a very sensible idea.

899. Do you think it should be extended, where real estate is in question as well as personal estate ?—I think so, because at present there is no remedy where it is a small amount.

900. Is there in your view any inconsistency in giving jurisdiction in equity to the amount of 300*l.*, and limiting the jurisdiction at law to 100*l.* ?—No, I do not think there is, because a man would go to law for 100*l.* who would not go into Chancery for 300*l.*

901. Do you think it desirable that a jurisdiction in bankruptcy should be conferred

R. Perkins, Esq.
2d May 1854.

upon the County Courts?—I think so; but there is very little bankruptcy now done in the country districts; every thing that can be is settled by arrangements; nobody goes to bankruptcy if they can help it.

902. Is the bankruptcy jurisdiction in the country districts so exceedingly inconvenient that persons would rather put up with the loss of their money than take the estate into bankruptcy?—Yes, I think it is very inconvenient; the district is far too wide.

903. Would the localizing of the jurisdiction in bankruptcy have a tendency to make proceedings in bankruptcy more frequent?—I think it would; I think the more you have the whole thing worked where the creditors are, the more desirable it is, because everything is known. I consider it a great disadvantage when it takes place at a distance.

904. How would you manage with regard to an adjudication in bankruptcy supposing the jurisdiction given in the County Court, as the judge might sometimes be sitting at one place and sometimes at another?—The power should be given to the judge, and not to the court. The judge should have power, wherever he is, of hearing the application. The machinery is perfect, and it could be well worked out, but this point wants providing for. I think it might be done by leaving it with the clerk.

905. Does not the registrar do it in the Bankruptcy Court?—I believe he does in the absence of the commissioner.

906. It is done merely by affidavit?—Yes; I think it desirable that bankruptcy business should be transferred to the County Courts, but some arrangements would require to be made, and power should be vested in some person permanently resident.

907. Do you think the machinery of the County Court well fitted for the purpose?—Yes.

908. On the subject of the quarter sessions, can you express any opinion?—No; but as far as regards the revising of the lists of voters, the machinery of the court is well adapted to that.

909. What do you think of the political aspect of it?—It might require consideration whether making the judge so far a political person would be desirable. I think the machinery is well adapted to it; nothing could be more convenient; but if it was a matter of doubt or suspicion, I think the judge should be guarded from it.

Adjourned.

Tuesday, 9th May 1854.

JOHN HERBERT KOE, Esq., Q.C., in the Chair.

C. J. Palmer, Esq.
9th May 1854.

Charles James Palmer, Esq., was called in and examined.

910. You are a solicitor, in Bedford Row?—Yes.

911. In very extensive practice?—Yes.

912. We understand that the Incorporated Law Society, knowing that we were very anxious to have the best information we could upon the subjects relating to this Commission, requested you to come here and give us information upon the matters before us?—I believe it was my brother, who is one of the Council of the Law Society, who was to attend, but he has been very ill lately. I have attended, I can hardly say, for him; but in consequence of a notification from the Law Society, and in consequence of a letter I received from the Commission.

913. Have you had any experience with respect to the practice of County Courts?—I have seen a good deal of the practice, but I do not practise there myself.

914. You are aware that the County Court now has exclusive jurisdiction only up to 5*l.* in matters of tort?—Yes.

915. Would it be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court?—I think not, so long as the question of damages is left to the tender mercies of twelve men. I think it utterly impossible for a plaintiff or his attorney to judge of what damages may be given, therefore I think 5*l.* is quite sufficient for the County Courts.

916. Supposing a plaintiff lays his damages at any sum between 5*l.* and 50*l.*, would you then think it proper that the County Court should have jurisdiction?—Yes; I think it ought; if the plaintiff only estimates his own damages at 50*l.*, I think the County Court ought to have jurisdiction.

917. Are you of opinion that cases between 5*l.* and 50*l.* should be subject to an appeal? Certainly not.

918. Not even on matters of law?—Not unless the judge shall reserve matters of law for the opinion of a higher tribunal, similar to reservations now at Nisi Prius in the superior courts.

919. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—No; I think the jurisdiction of the County Court should be limited to 20*l.*

920. You know that the County Courts have now jurisdiction up to 50*l.*?—I think it should be 20*l.*; I see no necessity to alter the present concurrent jurisdiction. I think all actions upon contract over 20*l.* should be brought in the superior court, that is, subject to the *option* of the plaintiff. That where such action was upon any bill of exchange or promissory note, bill, bond, deed, or any written contract, and the defendant by his plea denied the making or his acceptance, or denied his signature or his handwriting to the document, he should be allowed to plead no other plea with that plea, and that denial should, after an inspection by the defendant of the document, if he required such inspection, be verified by affidavit, that would in a great measure put an end to undefended actions; but if the action were defended, that is, if the affidavit were filed with the plea, and the plaintiff took issue upon it, the issue should be tried either by a judge of the County Court or be referred to one of the masters of the court to decide the question of handwriting, and if he found for the plaintiff, he should compute the principal and interest, if any, due upon the security, upon which finding, final judgment should be signed and execution issue.

921. Are we to understand you as saying that you would limit the amount at all?—No; all actions for the recovery of debts over 20*l.* (except at the option of the plaintiff, up to 50*l.*) should be brought in the superior court; but wherever the gist of the action was proof of the handwriting of the party in actions on deeds, bonds, bills, notes, or other signed documents, and the defendant denied his handwriting, he should verify that plea by affidavit. Should he plead infancy, fraud, or any other special plea in confession and avoidance, then that issue should be tried in the ordinary way.

922. That would be in all actions under 50*l.*?—To any amount over 20*l.* or 50*l.*, as the case may be.

923. Then in sums above 50*l.*?—If the plaintiff brought his action in the superior courts for sums between 20*l.* and 50*l.*, or above 50*l.*, the rule would apply.

924. Would it be convenient that the County Court should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I think not; because a question of title may turn upon some very nice points.

925. What would you say if it was subject to an appeal upon a question of law?—Still I think not; a question of title is a dangerous question, because even now, however trifling the property may be, it may raise an issue of legitimacy or some other difficult question.

926. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?—No; because I think the question of amount there has nothing to do with the question of law. You might have just as difficult a question under the will of a cobbler as under the will of Old Woods, of Gloucester.

927. You are aware that under section 128, if the plaintiff resides 20 miles from the defendant, where the material parts of the cause of action arise within the jurisdiction, the Courts of Westminster Hall have a concurrent jurisdiction?—Yes.

928. Do you think it desirable to repeal that section?—No.

929. You would leave section 128 standing?—Yes; because where is the plaintiff to go to?

930. He might go to an adjoining County Court?—No. Take the case of insurance offices with agents. We are concerned for a large insurance office whose principal establishment is at Liverpool. They have an agent in Cornwall, and a branch office in London; where is the party to be summoned? from Cornwall to Liverpool, or from Cornwall to London?

931. That is rather an exceptional case, is it not?—No; there are a great many manufacturers in the country who have agents in London. I do not think you can draw a line. I think twenty miles is quite sufficient.

932. As to the latter part of the clause relating to the officers of the Court, if an officer sues or is sought to be sued, the plaintiff, if he chooses, may go to a superior court. Do you think it desirable that that part of the clause should be repealed?—I think it should, because I think it is casting an imputation upon the judge. I think you might just as well take away the remedy by attachment from Westminster Hall against the officers of the courts there.

933. What, in your opinion, is the cause of parties not having more generally availed themselves of the jurisdiction by consent?—Because I think that the parties themselves, the plaintiff more particularly, has less trouble and inconvenience, and very often less expense, by suing in the superior court, especially if it be an action not likely to be defended.

934. But the question presumes some case in which there is a litigation between the parties; but they do not come into the County Court as they might under the consent clause, but go to the superior court?—I say again it is less trouble to them. They fancy, and perhaps it is so, that the case is better conducted in the superior court. They have an opportunity of employing their solicitors and counsel, and of having the trial

C. J. Palmer Esq.

9th May 1854.

take place before a jury, special or common, and before a judge, and of an application for a new trial, supposing the judge should be wrong.

935. Would not the objection also to a certain extent arise that there was no proper scale of costs in the County Court to remunerate the attorneys who were employed?—Certainly; the attorney no doubt has a feeling upon the subject.

936. Does it also sometimes happen that when men do go to law, they will not consent to anything?—I hardly know whether they are in a state to consent to anything.

937. They do not like to consent?—No; where there is a spirit of litigation going on, neither party will consent to anything.

938. That is another reason you suppose why that clause is not made use of?—Yes; and the same feeling exists with respect to references—parties will not consent to a reference, but go on with cases which they know when once they get into court must be referred.

939. The same feeling operates perhaps in preventing parties from referring to the County Court?—Just the same; in fact the parties do not come across each other until the case is ripe for trial.

940. You are aware that the County Courts have unlimited jurisdiction in matters of replevin?—Yes; in cases of damage feasant, the damages are usually very small, and in cases for the recovery of rent, I do not see why they should not.

941. Has that jurisdiction been inconveniently exercised?—I cannot answer that.

942. You have had no experience in actions of replevin in County Courts?—No.

943. Do you see any objection to extending the present jurisdiction in cases of rent, from 20*l.* to 50*l.*?—I see no objection, as between landlord and tenant.

944. Would you make the decision of the County Court in those cases final, or subject to appeal?—As between landlord and tenant, I should make it final.

945. But in cases of damage feasant?—There I should leave it open to appeal, because important questions of law and fact might there arise, that is, a question of title, and a question of boundary might arise.

946. Would you make the appeal, as you before suggested, at the instance of the judge, by giving leave to either party to move; or would you make it matter of right, as the law at present stands, between 20*l.* and 50*l.*?—No; between 20*l.* and 50*l.* I should leave it to the discretion of the judge to reserve some point for the opinion of the Court above.

947. And if none was reserved by him, you would not think it desirable that an appeal should take place?—No; I should think not.

948. Up to 20*l.* you would give no appeal?—I would give no appeal upon any ground at all, unless a case was made out against the judge, that he had been absolutely and wilfully corrupt.

949. You would give no appeal in law?—No; I would not, unless the judge reserved some question of law.

950. Then, when a claim does not exceed 20*l.* you would not allow an appeal upon the application of one or other of the parties, but in sums exceeding 20*l.*, and not exceeding 50*l.*, you would leave the appeal clause as it now stands?—Yes.

951. And above 50*l.*, you would also give a right of appeal on questions of law?—Yes.

952. But, in questions of fact, in no case would you allow an appeal to take place?—No; I should treat the question entirely as the superior courts now do, as a question for the jury, and leave the jury, or judge if no jury, to decide it.

953. Has any inconvenience arisen from the present practice in interpleader, where goods are taken in execution?—That is a question I have had no experience in.

954. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—I must give the same answer as to that.

955. Is the jurisdiction to give possession of small tenements, under section 122 of the 9th and 10th of Victoria, chapter 95, found to be convenient?—Yes.

956. Would it be convenient to extend that jurisdiction to tenements of greater value, where the relation of landlord and tenant exists?—Yes; without limit, except in cases where a question of forfeiture arose.

957. Subject to appeal?—No; unless the judge reserved some point: a question might turn upon the validity of a notice to quit.

958. You would say that it was desirable that the present power of staying execution under this section should continue as at present provided for by the County Court Act.?—Yes.

959. Would it be convenient that that jurisdiction should be extended to cases of forfeiture where the annual rent does not exceed 50*l.*?—No; not to cases of forfeiture, because I think some of the most difficult questions arise in cases of forfeiture.

960. Do you speak of that from the extended experience you have had as to a large mass of property in various parts of the country?—Yes.

961. Agricultural, and otherwise?—Not so much agricultural, as in London, where I have had a large experience with respect to leasehold property, mortgages, and other interests in land.

962. Is it desirable to repeal so much of the proviso contained in section 11 of the 13th and 14th Victoria, chapter 61, as excepts judgments by default from the operation

of the enacting part of the clause, that is, where the plaintiff brings an action in the superior courts for a sum not exceeding 20*l.*, and the plaintiff obtains judgment by default, the superior court would give him his costs?—No. The party is only deprived of his costs, where the jury have given a verdict for less than 20*l.* I think he should therefore have his costs; and have an opportunity of suing in the superior courts, because in many cases it is cheaper than the County Courts, and there is no trouble to the party at all; the attorney only gets 4*l.* costs.

963. You think it not desirable then to repeal that portion of the proviso?—I think not.

964. Would it be desirable that the County Court should have an equitable jurisdiction to a limited amount?—Yes; in testamentary cases, in *ex parte* injunctions, leaving of course the superior court to deal with that injunction afterwards.

965. The testamentary cases apply to administration suits?—Yes.

966. Would you mention any amount up to which you think the court should have jurisdiction with reference to the gross or annual amounts of the property, as the case might be?—I think I should be disposed to confine it to personal estate.

967. There you have a convenient mode of at least approximating the real value?—Yes; the value is nearly ascertained on the proof of the will.

968. The oath of the party seeking probate is an approximation to the value?—Yes; where a personal estate is sworn under 1,000*l.*, I should say the County Courts should have jurisdiction.

969. With respect to the removal and substitution of trustees do, you see any objection to that coming before the County Court?—I would not give the County Court jurisdiction in the appointment of new trustees.

970. Would it be desirable to give a jurisdiction in bankruptcy to the County Court?—Yes; in all cases I think the County Court Judge is just as competent as a country Commissioner, or as a London Commissioner either.

971. Would any inconvenience arise from the ambulatory character of the duties of the County Court Judge? In some cases he has twelve or thirteen towns to go to, each of which he must visit within the month. Do you think any inconvenience in the administration of bankruptcy would arise from that circumstance?—I think not, because he would always be at the particular spot where the proceedings were to be worked within a month; and in the majority of cases the bankrupt would reside in some town where in all probability, the judge would be more than once a month.

972. But supposing a race between the promoters of the bankruptcy and the execution creditor, might it not occur that the absence of the judge from town A., when the proceedings in bankruptcy were to take place in town B., would give the execution creditor an opportunity of taking some steps before the proceedings in bankruptcy could be properly taken so as to secure the right of the general body of creditors?—I apprehend the petition would be presented in London as at present. The execution creditor or the sheriff must, as now, cause search to be made for a petition before he proceeds to execute his execution by sale. This is the present practice.

973. Then no greater difficulty would attach to the County Court jurisdiction in bankruptcy than now attaches to the present jurisdiction in bankruptcy?—No; I think not; in all cases of bankruptcy the petition should be presented in London to the Lord Chancellor as at present, and upon that petition, the proceedings in bankruptcy should be carried on in the County Court. The petition should be presented, and immediately upon that, proceedings in bankruptcy should be taken before the judge of the County Court.

974. How is it done now?—By an affidavit of debt and a petition filed in London.

975. You would transmit the proceedings to the County Court to dispose of the matter, in the same manner as is now done by the Insolvent Court transmitting the petition of insolvency?—Just the same; in fact, I think the sooner the insolvency and bankruptcy laws are amalgamated the better.

976. At present 100 miles around London comes within the London district?—Yes.

977. Would you limit it in the same way?—No.

978. But wherever there is a County Court should the jurisdiction in bankruptcy be given?—Yes; the County Court should have jurisdiction in bankruptcy, whether it be fifty miles or five miles. I would not limit the distances. I take it for granted that the County Court judges are competent.

979. Irrespective of the distance from London?—Yes.

980. Do you consider that on account of the ambulatory nature of the duties of the judge, there would be any difficulty in taking the accounts in bankruptcy?—No; I think not. You might have an official assignee of certain districts, the same as you have now in the district bankruptcy courts.

981. Making the clerk of the Court an official assignee?—I question whether the majority of County Court clerks are sufficiently competent as accountants. An official assignee ought to be a good accountant.

982. And the high bailiff the messenger?—Yes.

C. J. Palmer, Esq.

9th May 1854.

983. Would it be desirable to give jurisdiction to the County Court in criminal matters now disposed of at the quarter sessions?—No; I think not.

984. Would it be desirable to transfer to the County Courts the duty of revising the list of voters?—No.

The witness then withdrew.

Wednesday, 10th May 1854.

JOHN HERBERT KOE, Esq., Q.C., IN THE CHAIR.

J. Pollock, Esq.

10th May 1854.

JOSEPH POLLOCK, Esq., was called in and examined.

985. You have been judge of the County Court, at Liverpool, for some time?—Nearly three years.

986. Have you a large number of cases in that court?—Yes; in the year 1853, the total number of plaints entered was 13,482.

987. Would it be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court?—I will answer this question along with the second one, if the Commissioners will allow me.

988. Then we will read the second. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—I do not agree with the suggestion made in either of those two questions, not because I am unwilling to increase the jurisdiction of the County Courts, but because I think this is not the best way in which that jurisdiction can be enlarged. It seems to me that the moment you pass the limits of what may fairly be termed "small debts," it is both unjust and inconsistent not to give the plaintiff the right of suing in any court to which he may be advised to resort. I therefore would give the plaintiff the power of suing in the County Court for any amount whatever, for which he might be advised to resort to it.

989. Both in actions of tort, and in actions of contract?—Both in actions of tort, and in actions of contract. I except certain cases of libel and slander, and similar actions, which I think are not suitable to local tribunals. A plaintiff at present seems to me unjustly treated. You compel him, virtually at least, under the pain of being refused a certificate by a judge, who is hurried at Nisi prius, and anxious to get rid of his business, in certain cases to have recourse to the County Court. I should leave him at liberty in any case in which the claim cannot fairly come within the meaning of a small debt claim, to have recourse either to the superior court, or to the County Court, at his option, and I should allow him to carry that option to any extent which he might desire; the defendant ought no doubt to be protected, and he ought to be at liberty, I think, to remove the action in any case exceeding the limit that I have named, into the superior court.

990. Will you mention the limit?—Whatever limit is supposed to be within the meaning of the small debts.

991. What construction would you put upon the meaning of the expression "small debts?"—I should myself be disposed to consider something about 10*l.* as the limit to which small debts would extend, but certainly 20*l.* I think the defendant should be at liberty to remove any case in which the amount claimed exceeded that which might be fairly supposed to come within the class of small debts into the superior court, upon deposit of the debt and costs, or upon giving security for the debt and costs, or upon obtaining a judge's order for removal without giving such security or deposit, the plaintiff to be at liberty to show cause against the granting of such order.

992. You would not leave the defendant at liberty to apply for such order without giving notice to the plaintiff?—I should not.

993. Would not that lead to a species of trial of the cause upon affidavit perhaps on both sides?—I think, in fact, very few cases would be so removed, and in the few cases that would be so removed, no injury would be done by the so called trial upon affidavit beforehand.

994. But you would afford the defendant in that case an opportunity of removing if he could make out a proper case for the interference of the judge?—Always.

995. That is in sums above 20*l.*?—Yes.

996. And as to sums not exceeding 20*l.*, would you leave the jurisdiction as at present?—Rather in deference to the opinion of others than my own I should do so. I myself should be rather inclined to extend the limit, I mean, to go lower than 20*l.*

997. You think, then, that the jurisdiction of the superior court and the County Court should be concurrent in all sums exceeding 10*l.*?—I am inclined myself to think so, but in deference to the opinion of many others whom I greatly respect, I should rather limit my present evidence to cases above 20*l.*, as that in which I should give concurrent jurisdiction.

998. Are you of opinion that there is any essential difference between a claim in respect of tort and a claim in respect of contract?—I see no reason why the same principle should not be extended to both cases.

999. The same court that is capable of disposing of a claim of contract would be capable of disposing of a case of tort?—In practice, before me trials of actions on contract involve many more difficulties than trials of actions in tort, which must be clear to any man who will take the ordinary mercantile cases in which claims for demurrage, for freight, for rights under bills of lading and charter-parties, are necessarily involved.

1000. This last class of cases are rather peculiar to the jurisdiction of your court, are they not?—I suppose they are peculiar, but I cannot think they are confined to that court, because, in the great ports of Bristol and Hull, Yarmouth and Newcastle, Portsmouth, and probably Plymouth, and similarly circumstanced places, the number of which is no doubt increasing, they must have such cases occur, though not so frequently as at Liverpool, which at present sends a greater number of vessels out than any port in the world. Some reference has been made to the difficulty arising from a trial of the case upon affidavit beforehand, and I think I said that I believed, in point of fact, there would not be very many applications by the defendant to remove from the inferior to the superior court. At present it seems to me that the defendants might apply to remove many cases which they do not apply to remove; I mean those cases in which there is at present a concurrent jurisdiction, in consequence of the residence of one of the parties being twenty miles from the other, or the cause of action not having arisen wholly, or in some material part, within the jurisdiction of the County Court in which the plaintiff sues. Now, in fact, I can have little doubt, that a defendant applying to remove any one of the cases in that category into a superior court would obtain the means of doing so; hundreds of these cases are brought annually before me. I have had but two applications made to remove in any such case, from which I infer, that the defendants are content generally to adopt the tribunal which the plaintiff has in the first instance resorted to.

1001. Do you think that the inconvenience which you apprehend arises from the exclusive jurisdiction of the County Courts in cases between 10*l.* and 20*l.* without the power of removal, would be prevented by allowing the defendant to make an application to the judge of the County Court that he might remove it to the superior court?—I understand the question to be this: Whether allowing the defendant, at his own option, the power of removing in cases beyond 20*l.* would meet the difficulty which suggests itself to my mind, as to giving him the power of removing, not at his own option solely, but at that option concurred in by the judge of the court below? I think it would.

1002. It would be convenient then to invest the County Court judge with a discretion as to the removal, in the same manner as that discretion is now exercised by the judges of the superior court?—I think so, certainly, in cases between 20*l.* and 10*l.*; and I am disposed to think that such a power might be properly intrusted to the judge in any case whatever, and my reason for it is this, that in practice I have found that claims of a very small amount indeed, involve practically in my jurisdiction the largest amounts. At present, with regard to such cases, I am involved in a difficulty from which I cannot free myself; if I go wrong, I go wrong to the amount in some cases of many thousand pounds a year, but I have no power, as the court is at present constituted, and under the present law, of obtaining the decision of the superior court upon my erring judgment, either by appeal or otherwise.

1003. Or of allowing either party to remove it?—Just so; if I had such power I could, as it seemed to me best at the time, either give permission to remove at once, or send up a case for the opinion of the court above upon appeal. In some cases I should adopt one mode of meeting the difficulty, in other cases I should adopt the other; but I should be very glad to have the opportunity of having recourse to either, and I may instance the cases of Admiralty Law arising from collisions in the river, which are of continual occurrence, and what are called "packed parcels" cases, which are also of frequent occurrence with me, both of which involve immense amounts to the parties concerned, if the principles upon which I go are wrong; but at present I have no means of setting right the application of those principles.

1004. Is there any danger that the exercise of that power might not be safely intrusted to the judge of the County Court?—I think there is practically none; the judge would be glad to obtain the decision of the superior tribunal upon a point of difficulty by permitting the removal to a superior court, in which case his judgment could not even be impugned, since he would not have tried the case: but, further, no judge could resist the weight of public opinion and persist in deciding cases practically of great importance without leaving it to a superior tribunal to settle the principle involved in those cases. There is one thing that I should like to add with respect to my proposal to give the County Courts jurisdiction of unlimited amount. I am quite certain at present that a great number of actions, principally connected with mercantile affairs, are not tried, solely because there is no tribunal to which ready access can be had; as for instance, a ship comes into Liverpool to-day, a cause of action arises within the following fortnight or a month, either by or against the captain; the only witnesses who could support that claim or meet it if brought, are persons connected with the vessel; they are in Liverpool and in this country but for a very short period of time; they perhaps never

J. Pollock, Esq.

10th May 1854.

return; the cause of action existing, and a debt being undoubtedly due, the man to whom that debt is due never can bring an action to recover it because he has not the opportunity at present of having recourse to a tribunal unexpensive and close at hand; his witnesses are gone and the remedy is lost for ever. I have reason to know that that occurs almost every day in Liverpool, and has occurred almost every day I believe for many months or years.

1005. How would you propose to obviate that?—It is obviated at present in the County Court up to 50*l.*, but I speak of those cases exceeding 50*l.* and running up to hundreds. The way in which the thing works at present in cases up to 50*l.*, is this: a vessel is leaving port or her crew are going off and engaging in other vessels; an application is made to me to bring on the case at the earliest possible day, and I displace, if necessary, other cases in order to try it; the parties are all there, the action is tried, the debt is recovered: and the witnesses separate and never could be got together again. But take the case to the assizes; the assizes are held twice a year; before the assizes come on, if it be an action for 500*l.* instead of 50*l.*, all the witnesses who could support the case are separated and never can be got together again. The consequence is, that merchants continually submit to losses for which they have a clear right to be indemnified, solely because they cannot go and try their case at once, and because they can never obtain by any possibility the opportunity of trying it anywhere at any other time. I believe that refers to all mercantile towns throughout the kingdom more or less.

1006. Would it be desirable in those cases that there should be a County Court continuously sitting in ports?—I think in such districts as Liverpool, the County Court ought to sit every day.

1007. Of course one judge could never perform all that labour. Do you think that an additional judge would be desirable?—I think it would be not only desirable, but I think it is all but necessary. I believe that the establishment of a second judge at Liverpool now would actually pay all the cost that would be incurred by the necessary change in consequence of such a second judge being appointed.

1008. If you had a court sitting every day, all the addition you would require would be the additional judge, would it not? The same staff would do?—With the exception, perhaps, of some one or two clerks, the rest of the establishment would be just the same.

1009. And the bailiff?—The bailiff would be a very slight additional expense.

1010. So that a very small increase of staff would be sufficient?—A very small increase; I think not above two or three persons.

1011. Have you, during your sittings at Liverpool, known any particular instance in which the promptitude of the remedy was particularly beneficial?—I have had many cases in which an application has been made to me for a debt, say, on Monday, the defendant being about to leave the jurisdiction; the summons is issued, returnable next morning; the action has been tried, and the debt paid, and the defendant has left the country before the evening of Tuesday. That has occurred, not in one case, but in many.

1012. Then, unless there had been a court so promptly ready to interfere in a matter of that sort, that claim would probably have been lost?—It would have been lost for ever, in the same way as claims of a larger amount have been lost.

1013. The same reason which would make it desirable that a claim of 50*l.* should be immediately enforced, *à fortiori*, would apply if you turn 50*l.* into 500*l.*?—Certainly. Two or three weeks since an application was made before me, on a Friday, for a summons returnable on Saturday, which is the only day at present on which I do not sit; I declined, therefore, to entertain the summons, but I offered to grant it returnable on Monday morning the first thing; they acted upon that permission, but on the Saturday afternoon the man had left and the debt was lost. If I had been sitting on the Saturday morning, the debt would have been recovered.

1014. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I am inclined to give them jurisdiction even when title is in question, subject to the power of the defendant to remove in the way that I have before mentioned.

1015. And subject also to an appeal?—And subject also to an appeal.

1016. By permission of the judge?—By permission of the judge in small debts.

1017. And above 20*l.* it should be a matter of right?—Yes; the appeal in all cases, according to my view, should be rendered as ready and inexpensive as possible.

1018. Can you suggest any means by which the appeal might be rendered less expensive than it is at present?—I am told that the costs of an appeal in any case cannot be much less than 15*l.* to each of the parties. I speak only from the information which others have given me; the expense of an appeal, as I understand, must amount to 15*l.* at least, and in practice it exceeds that amount, at least as between attorney and client. Perhaps a cheaper mode of appeal might be resorted to, at least in cases of trifling amount, by a proceeding somewhat similar to that by which cases are sent up to the Court of Criminal Appeal.

1019–21. Would it be convenient that the County Court should have jurisdiction where the validity of a devise, bequest, or limitation, under a will or settlement is in dispute?—I am inclined to think the same principle applies there. It is said that the plaintiff will, if these powers be permitted to him, bring his action before an incompetent tribunal; but, after much consideration, I do not think that objection well founded. A plaintiff who has a just cause of action will, ordinarily speaking, like other persons, prefer a competent to an incompetent tribunal. The only case in which I can conceive that he would resort to an incompetent tribunal voluntarily is where he supposed that there was on the mind of the presiding judge of that particular court a strong inclination of opinion in favour of such claims as his; and it seems to me that, if such an instance did occur, the remedy that I have suggested would be at once resorted to by the defendant, and would, in practice, be sufficient to protect him against the improper course pursued by the plaintiff. A man will not try his case voluntarily before an incompetent tribunal, unless that tribunal be notoriously prejudiced in his favour; and in the first place that is not likely to occur; and in the second, if it should, by accident, occur, a remedy is provided by the power of removal which I would give to the defendant.

1022. Then you would leave the power of removal either with the superior court or with the County Court judge?—Yes.

1023. Is it desirable to repeal section 128 of the 9th & 10th Victoria, chap. 95?—I need scarcely answer this question directly, for my answer to it is involved in the answers which I have given to the former ones.

1024. Have you adverted to that part of the section which relates to an officer of the court suing or being sued? What is your opinion upon that subject?—Where the officer of a particular County Court is sued, I certainly think the case had better be tried elsewhere; it might probably be tried in another County Court. And I would give the power of removal to an adjoining County Court, or into the superior court, as might be most desirable.

1025. At the discretion of the judge?—Yes; or at that of the defendant.

1026. What, in your opinion, is the cause of parties not having more generally availed themselves of the jurisdiction by consent under sect. 17 of 13th & 14th Victoria, chap. 61?—The natural disinclination of any defendant to assist a plaintiff to bring an action against him; and the disinclination of the attorney, even if the parties themselves are willing.

1027. Because there is no scale of costs in such cases?—No, there is no scale. I should say that in practice, I believe, large amounts are occasionally decided by actions for less than 50*l.*, in order to avoid the extra costs involved under the present arrangement. In questions where consent is necessary, they try in fact not for 50*l.*, but for 5*l.*, and then, if they are respectable men, they arrange between them that that shall settle a large amount; but that is very rare, and can only be the case when the defendant is as conscious of right as the plaintiff, and where both are equally anxious to have the principle settled; a case which but rarely, if ever, occurs. I have tried several actions by consent for sums largely exceeding 50*l.*, I think running up to something like 600*l.*, but they were all cases in which both parties were of the highest respectability, and in which the object was to settle a principle rather than the claim itself.

1028. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient where the declaration required by section 121 of 9th and 10th Victoria, chap. 95, has not been made?—I have found no such inconvenience practically.

1029. Have you had many cases of replevin?—I have had very few cases.

1030. Have any of them been removed?—I believe one was removed.

1031. As to those that were not removed, have you found any complaints made, or have you any reason to suppose that the jurisdiction has been unsatisfactorily exercised in those cases?—I have had no reason to suppose anything of the kind.

1032. Would it not be much less expensive to the parties in the removal of cases of this kind, to try it first in the County Court, and then, if either of the parties were dissatisfied with the decision, for them to apply to the superior court for its decision, than if the case were originally brought in the superior court?—In these cases, as in the former instances I have mentioned, I should allow the parties to have recourse at their option to the County Court. If there was any good reason for removing it in the first instance, I have no doubt that removal would be granted. Ordinarily it would be much more convenient to try it in the court below.

1033. Has any inconvenience arisen from the present practice in interpleader, where goods are taken in execution?—Two inconveniences have arisen with me: one from the difficulty of knowing how to proceed where the claim is in form technically inadequate, as for instance, where the description of the claimant has been omitted; my own impression is that in such a case there is no jurisdiction to try, but that is a doubtful question.

1034. Why do you think there is no jurisdiction?—Because coupling the Act of Parliament with the rules, it seems to me a condition precedent to giving jurisdiction, that certain formalties shall have been complied with; until those forms have been complied with, it seems to me the court is not possessed of the power to try and decide upon the

J. Pollock, Esq.

10th May 1854.

merits of the case. In practice, where the objection to the claim was merely formal, I have met this difficulty by dismissing the case upon such terms as I thought just, and leaving another claim to be preferred, which, when preferred, I tried, abstaining in the interim from giving any order as to the giving up of the goods to the execution creditor.

1035. That is, leaving the high bailiff in possession?—Yes; and permitting a second claim to be sent in, upon which claim I adjudicated, and tried the case upon its merits. I should desire to see a power of amendment with respect to the form of the claim given to the judge of the County Court, such amendment of course to be exercised upon the terms which in his discretion he may think just to both parties. Whether the power of amendment at present exists or not, the question is at least so doubtful, that I think a power of amendment ought in express terms to be given to the judge of the County Court. The second inconvenience which has arisen before me in the present practice of interpleader is perhaps of greater importance; it arises thus: three, or as I have had one instance of, five claims are preferred to the same goods, as against the execution creditor; all those claims come on to be tried before me. All five claims may be good as regards the execution creditor, and then the claimant being in all cases according to the present rules, and the Act of Parliament the plaintiff, and the execution creditor the defendant, the consequence would be that all the five claims would be adjudicated upon, five verdicts would be given in each case for the claimant, and then would arise the difficulty what was to be done with the goods as respects the claimants themselves. There is no power at present that I am aware of to decide as between those claimants *inter se*, their respective priority of claim; therefore it seems to me very desirable that there should be a power given to the judge of the County Court not merely to decide between a particular claimant and the execution creditor, but between the claimants *inter se*, so as to prevent further litigation. Perhaps it might be necessary where different claims were preferred, that a power should be given to the court to call before it in any individual case parties other than those immediately concerned, and thus that the claims might be decided upon *inter se*, as well as such individual claim against the execution creditor. It might be proper that such additional power should only be granted in cases where the claimants were willing that their rights *inter se* should be adjudicated upon.

1036. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—That question I have already answered.

1037. At the present moment you are aware that the period between the service of the process issued at the instance of the high bailiff, and the return day, is the same as in the ordinary summonses. Many complaints have been made that there may be in country cases a long possession by the high bailiff, which adds very much to the expense. Do you see any objection to shortening the period to a less time than ten days?—I should think it desirable that the time within which the claim might be tried should be shortened, say, to six days.

1038. Is the jurisdiction to obtain possession of small tenements, under section 122 of 9 & 10 Victoria, chapter 95, found to be convenient? Would it be convenient to extend that jurisdiction to tenements of greater value, where the relation of landlord and tenant exists?—The jurisdiction as it at present exists has been in my district productive of the greatest possible benefit, and I believe, it might well be extended to amounts of greater value, where the relation of landlord and tenant clearly exists.

1039. Would you put any limit to the amount of rent where the relation of landlord and tenant exists?—My answer to that would be similar to that which I have already given to the two first questions. I should give power to any unlimited amount, subject to the power of removal and appeal.

1040. Where the relation of landlord and tenant exists?—Yes.

1041. Would it be convenient that that jurisdiction should be extended to cases of forfeiture, where the annual rent does not exceed 50*l.*?—I am inclined to think it would; but I see a difficulty as respects this suggestion, which does not present itself in any of the preceding ones, and if such jurisdiction were granted at all, it should be subject to the power of removal and of appeal, in a way similar to that which I have before mentioned.

1042. Is it desirable to repeal so much of the proviso contained in section 11 of 13 & 14 Victoria, chapter 61, as excepts judgments by default from the operation of the enacting part of the clause?—I am inclined to think it is desirable to repeal it, but I hope that such a provision will be comparatively unimportant; because in the first place the comparative costs of the County Court and of the superior courts in cases of such judgments ought to be relatively altered; that is, the costs of the County Court should be diminished; and, secondly, in my opinion, judgments by default ought to be introduced under proper regulations into the County Courts. Upon the general principle, I confess, I agree with the view taken by Mr. Justice Cresswell, when this matter was first mooted before him, in the case referred to, Glynne *v.* Roberts. In that case, Mr. Justice Cresswell, differed from the rest of the court; and as regards the policy of the legislature, I am inclined to agree with the view taken by him. With respect to the actual intention of the legislature as expressed in words, doubtless no other conclusion could have been arrived at, than that to which the majority of the court came. While I am upon this subject, I should like to furnish the Commissioners with the comparative cost of judgments in the County Court of Liverpool, and in the Court of Passage at Liverpool,

J. Pollock, Esq.

10th May 1854.

under its procedure as amended by the Act of last Session. Perhaps I had better hand it in, and make it a part of my evidence. The note at the end of the paper comes from solicitors in Liverpool who have great experience in these matters; but as I agree with the opinion that note expresses, I see no objection to handing it in:—

"COURT OF PASSAGE.

"Costs of judgment by default, on debts exceeding 5*l.* and not 20*l.*—1*l.* 16*s.* 2*d.* All "of which fees go to the plaintiff's attorney, except 6*s.* disbursements. Costs of like judg- "ment above 20*l.*—2*l.* 14*s.* 2*d.* All of which go to the attorney, except 10*s.* disburse- "ments. It is impossible to state, accurately, the expenses of trials; they vary very much. "We have seen bills amount to 9*l.*, but exclusive of counsels' fees and allowance to "witnesses in the first scale. In the second place, 10*l.* 10*s.*; these may be an average "allowance in a perfectly ordinary case. In extraordinary causes the costs would greatly "exceed these amounts, but the court fees in all cases would be only from 20*s.* to 30*s.*"

"COUNTY COURT.

"A graduated scale in cases from 5*l.* to 20*l.*, commencing at 21*s.*, and ending at 3*l.* 10*s.* "Add to these, fees to advocate 15*s.*, and expenses of subpœnas; these are exclusive of "counsels' fees (where employed) and allowance to witnesses. In cases of 20*l.* and "upwards, the like fees, but with advocate's fee, where debt from 20*l.* to 35*l.*, of 30*s.*; and "from 35*l.* upwards of 2*l.*; and counsels' fee of 2*l.* 2*s.*, in cases of 20*l.* and upwards."

Since the Act of Parliament was obtained by which the Court of Passage is at present regulated, a considerable diminution has taken place in the number of cases entered for trial in the County Court at Liverpool, in which judgment was expected to go by default. This observation is added by the gentlemen I have alluded to:

"The great expense which we always complain of arises from all the causes in the "County Court having to be tried, every debt to be proved, in some way or other, "though the defendant sets up no defence whatever. We have frequently suggested "that the County Court should adopt the practice of the other courts of law, by allowing "judgments by default where there is no notice of an intended defence. We again "respectfully repeat the suggestion. If adopted, it would greatly tend to lessen the "labour of the judge also."

In reference also to costs generally, I desire to hand into the Commissioners a return, which I have had carefully prepared, shewing the number of cases in which professional men appeared before me in the year 1853:—

1853.

LIVERPOOL COUNTY COURT.

Number of Cases in which professsional men appeared.		Number of separate appearances by professional men.
Cases in which barristers appeared on both sides -	11	22
Do for plaintiffs; defendants not appearing by advocates	8	8
Do. for defendants; plaintiffs not appearing by advocates	5	5
Do. on one side; attorneys on the other - - -	42	42
Causes in which attorneys appeared on both sides -	401	802
Do. for plaintiffs; defendants not appearing by advocate	730	730
Do. for defendants; plaintiffs not appearing by advocate	381	381
Do. on one side; barristers on the other - -	0	42
	1578	2032

That is independent of insolvency. The following are the insolvents' cases:—

INSOLVENCY CASES.

Number of Cases in which professional men appeared.		Number of appearances by professional Men.
Cases on which barristers appeared on both sides -	0	0
Do. for insolvents; opposing creditors not appearing by advocates - - - - - -	2	2
Do. for opposing creditors; insolvents not appearing by advocates - - - - - -	0	0
Do. on one side; attorneys on the other - - -	11	11
Cases on which attorneys appeared on both sides - -	24	48
Do. for insolvents; opposing creditors not appearing by advocates - - - - - -	48	48
Do. for opposing creditors; insolvents not appearing by advocates - - - - - - -	10	10
Do. on one side; barristers on the other - -	0	11
	95	130

J. Pollock, Esq.

10th May 1854.

I am very anxious that the Commission should in some way instruct the judges of the County Courts as to the way in which costs should be allowed to professional men.

1043. Both barristers and attornies?—Both barristers and attornies. In one court the rule is to disallow the costs of professional men, except in rare instances; in another court the rule is directly the contrary, that is, to allow the costs of professional men in all cases in which the legislature has permitted professional men to appear, and their costs to be granted, unless there be something in the nature of the case which should prevent the judge from making such allowance. I am very anxious that our judgment should be guided in this matter, because I know that a great difference in practice exists between myself and others, and at present I have no means of ascertaining which is the proper course to be pursued. I myself think that where the legislature has permitted the subject to exercise his own option, and either to appear by himself, or by a professional man, and has permitted costs for such professional man's attendance, he ought to be at liberty to exercise that option which the legislature gives him, and to appear by a professional man in such case, if he so desires, unless there be something in the nature or conduct of the case which would lead the judge to interfere and prevent his obtaining such costs. I know that in that opinion I am opposed by many of my brethren, for whom I have great respect, and that their view of the case is, that the costs of professional men should either be disallowed almost universally, or at least should be granted only in a very small number of cases selected by the judge. That seems to me, with great deference to their opinion, indefensible in principle, and I think it has one very dangerous tendency, that if a judge allow costs of professional men only in a small number of cases, and disallow them generally, he is sure to be suspected at least of partiality in the selection. I find it very difficult to lay down any general rule by which he could be guided in such selection. The amount at stake clearly cannot be a fair test, because an action upon an undefended bill of exchange can frequently be more easily conducted by the plaintiff in person, than an action for 5*l.* or 5*s.*, upon many questions which come before the County Courts. If amount is not to be considered as a test, is the supposed difficulty of the case a proper test? I cannot see how that which is easy to my mind is to be conceived as being equally easy to the mind of an uninformed plaintiff. Take for example the instance of an action for goods sold and delivered, goods furnished by a shopkeeper, through his shopman, delivered at a railway station—the railway company to be the carriers of the defendant. That is a simple action for goods sold and delivered in name, and yet there is not one plaintiff in fifty that would know how to bring before the court the ordinary evidence which would ensure him a verdict. If you granted the costs of a professional man in that case, he would bring the evidence in the first instance. If you do not do that, the plaintiff will probably come without such evidence, or he will be driven to pay out of his own pocket for the cost of that advice which the misconduct of the defendant had rendered necessary. In fact, if he comes without witnesses, as if he relies upon his own judgment he is sure to do, the judge will be compelled, in order to do justice, to adjourn the case, and to direct that a considerable number of witnesses should be in attendance on the day to which it is adjourned, and the cost in the whole will, I believe, exceed that which would have been the limit in the first instance, if the matter had been in the hands of a professional man, who would have come furnished with the proper evidence.

1044. Would you then in every instance, where the Act of Parliament and the rules of the court permit it, allow the costs of professional men, where the parties avail themselves of their services, and take away the discretion of the judge in that matter?—No; I should undoubtedly leave it to the judge's discretion to refuse costs in any case where he might think fit.

1045. That is leaving it in the state in which it is now?—The law as it at present stands I cannot see ought to be altered, but in practice there are pretty well as many different modes of proceeding as there are courts, and I think it most important that we should, if possible, obtain from some competent authority, some intimation as to the course which in this instance we should pursue; practically two courts next door to each other are conducted upon totally different principles in this matter.

1046. Still, if it were a mere intimation, would not that leave the matter in the state in which it is at present?—Perhaps it might, but I should be very glad to have it, and the more so, because I cannot but see that the number of professional men appearing before me is very large in proportion to the number of the cases tried, and I cannot but entertain some doubt, whether the principle upon which I act may not have some effect injurious to the County Court system generally.

1047. Can you state any such intimation as should be given upon this subject to the judges of the County Courts, which might operate to produce a more uniform practice?—I find it difficult to suggest any form in which it could be given, but if some opinion were expressed in the Report of the Commissioners to the Lord Chancellor, and publicly adopted by him, it might go far to remedy the evil, for I cannot but consider it a great evil, that the courts should differ so decidedly upon a matter of practice of such importance, the effect of which is to drive professional men from one court and to invite them into another.

1048. Would it be desirable that the County Court should have an equitable jurisdiction to a limited amount?—I think the mixture of equitable and common law jurisdiction should begin with the superior courts, and that a change so important should

not be introduced by patchwork or piecemeal through inferior tribunals. Whether the County Courts might not hereafter have granted to them an equitable jurisdiction when this change has once been introduced and sanctioned, I give no opinion at present. I am inclined to think it might safely be intrusted to them.

1049. You are aware that the County Courts have an equitable jurisdiction now in partnership, intestacy, and legacy?—Yes.

1050. Do you see any objection to the continuance of that jurisdiction?—No; I see no objection to the continuance of that jurisdiction which is at present granted, but the question is so general, that I cannot answer it otherwise than I have already done.

1051. Supposing the claim in question to be a money demand, and to depend entirely upon a technical objection as to whether the remedy would properly be in equity instead of common law. For instance, supposing a testator leaves 50*l.* to A: if the executor assents to the legacy, of course the legatee may maintain an action against the executor for it, but supposing it is left to A. in trust for B., then, although it is a bare trust, still the remedy of B. would be in a court of equity instead of a court of law—would you think it undesirable that the power of the County Court should extend to giving a remedy in such a case as that?— My present objection arises, not from the fact that I think it undesirable that a court of common law should possess such a power, but because I do not think that the way to amend the general practice of the country is to introduce into the inferior courts a great principle, and then try to amend the superior courts by the inferior. I think that has two great disadvantages: one, that it is a mode of legislation by patchwork, which is sure to lead to difficulty when you have advanced further in the course; and, secondly, that it must of necessity create jealousy between the inferior and superior courts, and that instead of setting to work to remedy the evils, if evils exist in the constitution of the superior courts, you endeavour to do it by applying this amendment, supposing it to be an amendment, in an inferior court, and then bringing the expression of public opinion to bear against the superior court, and saying, why do not you adopt that which has been done in the courts below, and done with success? I think that has a most injurious tendency, and I believe the evils we have at present to contend with are in a great degree due to the fact, that certain improvements in the law were first suggested in the inferior courts, and then extended from them to the superior courts, under as it were the terror of a threat that they are not doing as well as the court below. I think that has a most injurious effect upon both tribunals.

1052. Do you think it a mischievous practice to examine the parties in the cause which was introduced in the County Courts?—I think the provision for examining the parties in the cause most beneficial, and I say in that case as well as in the present, I only object to beginning in the court below; not to the fact that a change when once shown to be a good one should extend to the court below as well as the court above, but that you ought not to be trying to amend the courts at Westminster by this indirect way of legislating for them through the pressure of public opinion and the practice of the inferior court; my only objection to giving an equitable jurisdiction, arises from the fact, that it ought to be introduced as a most important change, affecting the whole constitution of our present law, in a deliberate and formal manner in the superior courts first.

1053. Would it be desirable to give jurisdiction in bankruptcy to the County Courts?—I think the bankruptcy business of the country might properly be intrusted to the Bankruptcy Courts, but why the insolvency business should be separated from the bankruptcy business and given to the County Courts, while the bankruptcy business remains with another tribunal I am at a loss to discover. In principle, it seems to me that there ought to be no distinction between the administration of the laws in bankruptcy and in insolvency, the tribunal which is habitually conversant with one ought to deal with the other. Whether the Bankruptcy Commissioners might, without trespassing upon their other important duties, undertake certain of the duties of the County Courts, I am not sufficiently informed to say; but I think the County Courts have quite sufficient to do with their own matters, and that the Insolvency being restored to the Bankruptcy Commissioners, they might be left to deal with those two classes of practice.

1054. Then you think it would be more convenient to transfer cases from the County Court to the Bankruptcy Commissioners than to take the business from the Bankruptcy Commissioners and give it to the County Courts?—I do.

1055. With the machinery of the County Courts, would there be any difficulty in performing the duties attached to the jurisdiction of Bankruptcy?—I have been told that there would be. I confess that I think the machinery of the County Courts might easily be adapted for such purpose, although if they obtained the powers which I think should be granted to them, they would have quite enough to do with that which lies properly within their own common law department.

1056. Might the clerk act as registrar and official assignee, and the high bailiff act as messenger?—I do not see why he should not; the clerk is official assignee at present in insolvency cases: why he should not be so in bankruptcy I cannot discover, if he can be so in insolvency.

1057. Would it be desirable to give jurisdiction to the County Court in criminal matters now disposed of at Quarter Sessions?—I am disposed to think it would not be desirable to give this jurisdiction. I think the judges of the County Courts may with

J. Pollock, Esq.

10th May 1854.

great advantage to the country act in Quarter Sessions under the provisions of the Act of Parliament by which they can be created county or borough justices for such purpose, and in that way may materially assist in the disposal of criminal cases, but I should be indisposed to give the County Courts *quâ* County Courts criminal jurisdiction.

1058. Would it be desirable to transfer to the County Courts the duty of revising the list of voters?—I think it would be most undesirable; the County Court judge, were it imposed upon him, could not possibly escape from the imputation of political partiality and must necessarily be mixed up with local quarrels in a way that would render it exceedingly difficult, if not impossible, for him to perform his legitimate duties.

(Adjourned till 12 o'clock to-morrow.)

Thursday, 11th May 1854.

JOHN HERBERT KOE, Esq., Q.C., in the Chair.

T. Kennedy, Esq.

11th May 1854.

Thomas Kennedy, Esq., recalled and examined.

1059. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient, where the declaration required by section 121 of 9 and 10 Victoria, chapter 95, has not been made?—I have had no experience as to that jurisdiction, but I think that the jurisdiction might be extended, subject to the discretion of a judge of a superior court, in the mode I suggested as to the other matters.

1060. You are aware that the County Courts have unlimited jurisdiction at present?—Yes, provided the declaration be not made, but I would qualify the right of removal where the declaration has been made; I would subject it to the judge at chambers, deciding whether, under all the circumstances, the party removing should be entitled to remove to have the action tried in the superior court.

1061. You would transfer the power of permitting removal from the County Court judge to the judge of a superior court?—The County Court judge has no discretion in the matter, if the declaration be satisfactory and security be given.

1062. Would you transfer the right of removing the case in actions of replevin from the County Court judge to the judge of a superior court?—I would give the judge of a superior court a discretion beyond that which the County Court judge has now, and that discretion would involve a consideration as to whether the case would be better and more conveniently tried as regards locality or otherwise in the County Court than it would be in the superior court.

1063. The question is, Whether you would transfer the right of removing the case from the County Court judge to the judge of a superior court?—I would allow the County Court judge the right to remove the cause as upon the declaration being made, but I would give the other party leave to apply to the judge of the superior court, who might exercise a discretion, and who should have power, if he thought fit, to order the action to be tried in any County Court other than that in which the action was brought.

1064. And upon such terms as he thought proper?—Yes, following out the principle with which I set out, namely, that the question of venue is a mere matter of form. The essential point is to have the case tried where it can be most economically and best tried as between the parties; I would leave a discretion in the judge to deal with it in that way.

1065. What inconvenience does it strike you results from the present mode of allowing the judges of the County Courts to permit the removal, supposing the terms of the statute to be complied with?—I do not see any objection to the right of removal remaining as a general rule upon its present footing, that is to say, if the declaration be complete, the County Court judge not having any discretion in the matter to say whether it shall be retained or not; but as the party making the declaration might exercise such right for the purpose of delay, or to suit some other purpose of his own without due regard to his opponent's rights, I think the opposite party ought to be allowed to go before the judge of the superior court, and have the action remitted, if he can show good cause for it.

1066. Which do you call the opposite party?—The party not making the declaration; the party opposing the removal.

1067. If the matter involves a question of title, or other matters of that description, the judge cannot go on, until the declaration is made?—Exactly so.

1068. Then would not that have the effect of repealing that clause, and enabling the judge of the superior court, under certain circumstances, to permit the County Court judge to decide upon questions of title?—It would, of course, to some extent, supposing it were a question of title relating to property of small value, depending perhaps upon a simple fact, or where there is no intricacy, and it is apparent that the question is raised for the purpose of delay; in such a case the judge of the superior court might, in the exercise of his discretion, refuse to allow the mere allegation of the title being in dispute, to take the case out of the jurisdiction of the County Court.

T. Kennedy, Esq.
11th May 1854.

1069. Perhaps you have not had much experience in questions of replevin?—I have not; I should, however, remark that although there may be some cases where the title is involved which might perhaps be advantageously tried in the County Courts, I still retain the opinion that questions of title, as a general rule, would be better decided by a superior court.

1070. Would you place actions of replevin in the same category?—Yes; that is, the judge should have a discretion.

1071. Do you mean the judge of the superior court?—Yes.

1072. You do not mean the judge of the County Court?—No.

1073. That would deprive a judge of his present power of ministerially removing the action, if the conditions mentioned in the section were fulfilled?—No; I would not deprive him of that power.

1074. Then would you have concurrent jurisdiction as to the power of removal?—I conceive the present power of removal is upon mere matter of form: all that the County Court judge has to do is to ascertain whether the declaration is agreeable to the forms of the Act of Parliament.

1075. And the security satisfactory?—Yes: that I conceive to be all matter of form; the application to the judge of the superior court would arise after the County Court judge had permitted the removal.

1076. What advantage would you gain by that? because if a man is entitled to remove as a matter of course by complying with the condition precedent, why should he give himself the trouble of submitting to the discretion of the judge of the superior court?—But I am proposing to give the opposing party, that is to say, the party not making a declaration upon which the cause is removed, a power, if he be dissatisfied with that removal, of applyihg to the superior court to remit the action to the County Court judge, if he could show that the declaration was false, or if from any other circumstance the judge in his discretion should think it was a fit case to remain in the County Court, or on the other hand, where the declaration under the statute cannot be made, either party should be at liberty to apply to the judge of the superior court to remove the cause from the County Court.

1077. You would leave the whole discretion to the court above?—Yes.

1078. Therefore you intend to exclude the County Court judge altogether?—No; I would not exclude him.

1079. But you would make the judge of the superior court in fact a court of appeal?—It involves that and something more; I mean that he should, besides considering whether the terms of the statute have been complied with, have the power of exercising certain discretion which the County Court judge has not. The County Court judge looks at the declaration and ascertains that it complies with the Act; the security is given, and then he is bound to remove it; the judge of the superior court might see other circumstances which in his discretion would induce him to say: Although the removal may be strictly right according to the statute, yet, in his opinion, the case is a fit one for the County Court to try.

1080. Then you think that the judge of the superior court should have the power to remit or remove, as the case may be, he being satisfied that the steps taken in the County Court were unsatisfactory?—Yes; but probably a strong case ought to be made to satisfy the judge: still I would give him the power to remove an action of replevin into the superior court, without a declaration, or to send it back, where the declaration has been made, either to the County Court where it was brought, or to any other County Court, if he thought it was improperly transferred to the superior court.

1081. Your impression is that there should be a power in the judge of the superior court to remove or remit, according to circumstances, at his discretion?—At his discretion.

1082. That is, you would give him the whole discretion, dependent upon what is brought before him?—Yes; it being of course understood that the jurisdiction of the County Court should be limited to some extent with reference to the amount in question.

1083. Leaving the present power of the judge, which is substantially ministerial in the County Court, just as it is?—Exactly.

1084. Has any inconvenience arisen from the present practice of interpleader in the County Courts?—I have had no experience whatever in that.

1085. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—That I will answer in the same way: as I am not acquainted with it, if the question were put to me generally I might perhaps have something to say.

1086. Is the jurisdiction to give possession of small tenements, under section 122 of 9 and 10 Victoria c. 95, found to be convenient? Have you had any experience in the matter?—I have had no experience, but I should think it would be very useful, and the more so if the plaintiff could have judgment by default in like manner as he would in the superior courts in case the defendant did not give notice of his intention to defend the action, or if the tenant did not dispute the right of the landlord to the possession within a certain number of days after service of the summons.

T. Kennedy Esq.

11th May 1854.

1087. Would it be convenient to extend that jurisdiction to tenements of greater value where the relation of landlord and tenant exists?—I think so, subject to the suggestion I have made before, of giving the judge of the superior court a control over the matter.

1088. Will you mention the extent of the rent or value?—I should say 50*l.* or 100*l.*: in fact I do not know that any limit would be material if the judge of the superior court had control over it.

1089. Would it be convenient that the jurisdiction should be extended to cases of forfeiture where the annual rent does not exceed 50*l.*?—I think decidedly not, because you may have a property of immense value at stake, where there is perhaps only a ground rent of 40*s.* reserved; it might be a property worth several thousands: you cannot limit it by the amount of rent.

1090. But you think it would not be objectionable if it were subjected to the same conditions and terms of removal as in other cases?—If you were able to ascertain the value of the property at stake so as to limit the jurisdiction.

1091. You mean the value to be let?—One would guide the other. The value for letting decides what is the marketable value of the property itself.

1092. Is it desirable to repeal so much of the proviso contained in section 11 of 13 and 14 Victoria, chapter 61, as excepts judgments by default from the operation of the enacting part of the clause?—I think not, except it were to limit it to matters of less than 5*l.*, and for this reason, that in the superior courts you can get judgment by default now at a less expense than you can in the County Court, and therefore I do not see why the plaintiff should not have the option of going to the superior court at once.

1093. You are aware that in the superior courts the attorney has to be paid, whereas in the County Court the plaintiff may proceed without any attorney; and although the fees of the superior court are so small, yet the costs of employing an attorney far exceeds them; therefore, in point of fact, the defendant is saddled with more costs in the superior court than he is in the County Court?—No; that is not so, I think.

1094. You would only repeal the clause to the extent of not giving the plaintiff costs unless his claim amounted to 5*l.* or upwards?—Yes; where it exceeds 5*l.* I would give the plaintiff the option of going to the superior court; and the reason I take that view is, that it would be found that the expense in the County Court in the majority of cases between 5*l.* and 20*l.*, including the attorney's charges, of which the suitor can now have the benefit to a very limited extent only in the County Court, as against his opponents if he succeeds, exceeds the amount of expense in the superior court, also including the attorney's charges throughout the matter, upon the average, namely, where the debt exceeds 12*l.*, and that in the other cases the difference would be very trifling. I consider the advantages to the plaintiff are so great in the superior court that I would give him the option of going there if he thought fit, even if it occasioned an extra expense to the defendant of a few shillings, or even more. I might even say this, that when the scale of costs for the County Courts is settled, the costs will inevitably be greater in the County Courts, if the present mode of proceeding in them be retained, than the costs in a superior court.

1095. That is, if the scale of costs which you and other gentlemen agree to were put in force?—Yes; if a fair scale of costs be allowed (I do not care what it is), provided it affords the attorney a fair remuneration for his labour, time, and trouble, the expense in undefended cases would be more in the County Courts, as now constituted, than it is in the superior courts at the present moment; and for this obvious reason, that the practitioner can, from the proximity of the offices of the superior courts to the place where he conducts his business, prosecute all cases with greater facility, and at a less loss of time and trouble than he can in the County Courts, which are convenient to those only in the district who are in the immediate neighbourhood of those courts; and this advantage is extended to suitors at any distance from London by the principle of agency.

1096. Then are we to understand that you think a plaintiff ought not to have the option of suing in the County Court without employing an attorney?—He ought, of course, to have the option, as in the superior courts, of suing in person; but I think you should not deprive him of the right of employing an attorney, at the expense of the losing party, and subject him to pay the costs of the attorney out of his own pocket, where he proves himself to be the injured party. This appears to me to be inconsistent with the first principles of justice.

1097. Would it be desirable that the County Court should have an equitable jurisdiction to a limited amount?—I think not; in fact, it would be very difficult to limit the amount, for a plaintiff may sue for a debt or a legacy of 20*l.* in the Court of Chancery, in a case which may involve the administration of an estate of 30,000*l.*; there are not any means by which you can very well fix for limiting the amount; and I think you would require a larger staff for working cases properly, than you could conveniently afford in the County Courts. I think the County Courts may very well be made ancillary to the Court of Chancery in taking cases which that court may think proper to send to the County Courts. Matters peculiar to the jurisdiction of the Court of Chancery are much better conducted by persons conversant with them, and devote themselves more particularly to them.

1098. You are of opinion then that that jurisdiction which the court at present has

ought to be taken away?—I say decidedly it ought not to be increased; and if I am asked further, I say I think it ought to be taken away.

1099. In point of fact, you think the County Court ought not to have an equitable jurisdiction?—Except as ancillary to the superior court.

1100. Would it be desirable to give jurisdiction in bankruptcy to the County Courts?—I would give the same answer to that. I should not think it desirable to give them jurisdiction, except as ancillary to the Court of Bankruptcy.

1101. How could you have it ancillary to the Bankruptcy Court?—You might take proof of debts, &c. subject to appeal.

1102. But there are District Commissioners now all over the country?—I would substitute the County Courts for those, to exercise those functions, to receive proof of debt and so on, subject to their being questioned in the superior court. I would not give them an original jurisdiction, but merely ancillary to the Court of Bankruptcy, and with that, I think, you might dispense with the District Commissioners altogether.

1103. Would it be desirable to give jurisdiction to the County Courts in criminal matters, now disposed of at quarter sessions?—That is a matter in which I have not had any experience.

1104. Would it be desirable to transfer to the County Courts the duty of revising the lists of voters?—That is a matter which I know little of, but I do not see any objection to it; the objection would come from the judges, I should say.

1105. The objection that has been made is, that it is a political matter, and that it might affect the confidence which persons would otherwise have in the judges, as judges of the County Courts, if they were mixed up with political matters. What is your opinion upon that subject?—My own notion is that the County Courts would be as likely to exercise it impartially as the revising barristers. I cannot express any opinion upon it. I should say they would be quite as competent to do it, and they would do it as impartially: whether it would interfere or not with their present duties or efficiency I cannot say.

1106. Perhaps you have not attended the revision of the list of voters?—No; I have not.

1107. Have you any further observation that you wish to make?—It seems to me that the County Courts might be very much improved if a right of appeal were given in all cases above 5*l.*; indeed I consider that it is most essential to the due administration of justice that there should be such a right, and that the suitor being left in matters coming within the jurisdiction of the County Court to the mercy or caprice of a single judge, amounts to a denial of justice. There cannot be any settled law without such right of appeal. Every County Court judge may entertain a different view of the law; he may entertain a different view of the law of evidence; may have peculiar notions of his own, and it is impossible for anybody to say what the law may be in one district, and what it is in another district.

1108. But are not the County Court Judges generally pretty well informed upon the rules of evidence and of law as to the recovery of debts?—If they are, they may not always follow them; you are at the mercy of their discretion, if you cannot appeal where they decide against you; by giving the right of appeal you will not increase the appeals to any extent in all probability; because the judge will take more pains and more trouble in the investigation and decision of the matter when he knows that he is subject to be overruled; where a tribunal and a judgment is subject to appeal everybody knows that it carries greater weight with it than when the judgment is not subject to appeal, or where it is a mere discretion exercised. And if a judge take a wrong view of the law, and that is once overruled, there would not be any further appeals on that point.

1109. Would you give it as a matter of right, or with the sanction of the judge?—As a matter of right. A party ought to have a right of appeal in every matter above 5*l.*

1110. As to law or fact?—As to law and as to the proper reception of evidence. With reference to the question of evidence, some County Court judges entertain some peculiar views; some require the production of the plaintiff's books in all cases, which we have always hitherto considered not evidence for him. I only give this as an instance; there are other cases where judges take particular views of what is proper evidence, and what is not; and as there are not any means of controlling them, it is open to this, that what a judge in one particular district decides to be evidence, another may decide not to be evidence: if there was a power of appeal that would not occur; it would be set right and a single appeal would settle the question definitively.

1111. Would you suggest that on an appeal an appellant should give security for costs, or should it be matter of right without giving any security for costs?—If the judge of the superior court thought fit so to order, it might be done.

1112. Then you must have another application to the court?—I think one application would be sufficient. The party should be entitled to appeal without giving security; but if the opposite party considered it a case in which he ought to have security, he might apply to a judge at chambers, and if he satisfied him upon the point, an order might be made disallowing the appeal, unless security be given within a limited time. A great deal has been said about the expense and inconvenience of having appeals, which would be numerous; but it does not follow from the existence of the right there would be many

T. Kennedy, Esq.

11th May 1854.

appeals. Although in matters between 20*l.* and 50*l.* the right has existed, it does not appear that it has been very frequently exercised. The creditor also ought to have the option of serving his own proceedings, and of receiving his own money. A case occurred in which I was concerned, where the defendant came into court and said: "I am prepared to pay 10*l.*" The plaintiff held out his hand to take it, but the County Court clerk interposed, and said: "No, you cannot take it; I must take it;" and the plaintiff was obliged to go or send on some other day when the court was not sitting, at a great loss of time and inconvenience, and pay a fee besides for taking it out. I think this a very hard case.

1113. If 10*l.* is the amount of the debt there is nothing to prevent his receiving it. Is it not the fact that it is only when it is not the whole of the debt that he cannot do so? —Unless the plaintiff waives his costs, I do not think he could take it. In the superior court we receive money on account, and still have our remedy for any sum that may remain due for debt or costs. There is a very great objection to the service of process by the bailiffs of the County Court, which is this, without speaking disparagingly of any of them, that they might receive a bribe not to serve the process; or they might be neglectful or not do their duty. The plaintiff has no control over them; he cannot tell what is the cause, but he finds his process not served; and if he does find out anything he does not like to complain, because if he comes again what is the consequence? Unless he proves the case, which it may be difficult to do, and the man is dismissed, he is considered a troublesome fellow; and it is very easy to throw impediments in his way in future.

1114. Have you ever heard of any complaint of that kind?—I have not heard more than this, that parties have very often found their summonses were not served when they thought they ought to have been. I do not say that I know any instance of bribery, I merely say it might be open to that; and it is very apparent how difficult it would be to detect anything of the kind; but if a plaintiff employs a person of his own choosing, if he suspects anything wrong, although he cannot prove it, he need not employ the man again. I also think it would go far to remove the great inconvenience and loss of time which suitors suffer in the County Courts in seeking to recover debts, by being compelled to attend with their witnesses in cases where the debts are not disputed, if plaintiffs were to be allowed to take a judgment by default where the defendant does not serve a notice of his intention to dispute the debt, and file an affidavit on it, or otherwise verify the service of such notice, within a certain number of days after service of the summons. I would also observe that inasmuch as one of the most important objects to be attained in the administration of justice is to afford every facility to suitors, and subject them to the least possible delay, inconvenience, and expense in obtaining their rights, such facility will be more readily afforded by allowing them to choose their own court in all cases above 5*l.* than by compelling them, without reference to circumstances, to go into any particular court. They will necessarily, with regard to their own interest, select that court which is the most convenient and least expensive. In undefended cases there cannot be any objection to this, and in defended cases, which are comparatively few, the only objection is that this might operate vexatiously to the detriment of the defendant. This, however, would be the exception and not the rule, and might be guarded against in the way I have suggested, and the controlling power of the judge in the superior court would be required in very few cases; indeed, the existence of the power would operate as a check, and it would be seldom necessary to exercise it. It is manifest that the County Courts upon their present footing are open to the very serious objection of providing cheap law, and bringing justice to the door of defendants at the expense of the plaintiff, the jurisdiction being in general determined by the defendant's residence. On the other hand, the rule of allowing a plaintiff to sue in the County Court near his own residence, where the cause of action arose within that jurisdiction, is also open to objection, unless subject to be controlled where justice requires it. I have been told that instances have occurred where summonses have been served on defendants from a remote County Court for claims without the slightest foundation, but in which defendants have considered it better to pay than incur the expense of travelling some hundred miles to defend the case.

F. P. Maude, Esq.

FREDERICK PHILIP MAUDE, Esq., was called in and examined.

1115. You have had considerable experience in the County Courts by attending as deputy judge?—I have acted as deputy frequently in Yorkshire and in London.

1116. Would it be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court?—I think not. I think that the option which is given to the parties now of suing either in the superior court or the County Court in those cases is quite sufficient.

1117. And desirable to be retained?—I think it is desirable to be retained. I do not see why persons should be compelled to sue in the County Court in those cases.

1118. Do you consider there is much difference in suing upon an action of tort and an action for debt?—I think that in a great many actions of tort and actions of contract, the

F. P. Maude, Esq.

11th May 1854.

substance of the case is really the same, but I think there are a few actions of tort which differ very materially from actions of contract.

1119. In the majority of cases do you think there would be the same difficulty?—I think that in the majority of cases now there would be the same difficulty.

1120. Is there anything so essentially different in the questions that are raised in actions of tort and those raised in actions of contract, that the same tribunal capable of disposing of one would not be capable of disposing of the other?—It would not be advisable, I think, to give the County Courts what would be practically a compulsory jurisdiction in all actions of tort up to 20*l.*; if you did that you would of course include in those cases some peculiar actions of tort which differ very materially from actions of contract, and which actions I think are better tried in the superior courts.

1121. Will you be so good as to mention some instance of the kind of case to which you allude?—Some actions of assault, for instance, in which a good deal of feeling is excited. I think such cases are better tried before a jury and in the superior court.

1122. You are aware that parties may have a jury in the County Court?—Just so; but practically it is a course that is very rarely adopted.

1123. When it is a mere accident, whether a claim is framed in tort, or whether it is framed in contract, and where the substance of the claim is so much money, would you see any objection in that case to having the County Court jurisdiction enforced? Take the case of an action against a railway company for not properly delivering a parcel valued at 20*l.*; the measure of damages in that case must be 20*l.* Would you see any objection merely because you must, from the peculiar nature of the injury, frame it in tort, to the County Court having a jurisdiction in that case?—In all cases in which the action might really be framed either in tort or in contract, I do not see any objection to the County Court having jurisdiction; but if you give the County Court a practically compulsory jurisdiction in these actions of tort, you would then include a narrow class of cases, which I would not exclude from that court, but which I think you ought not to compel parties to bring there.

1124. Then with the exception of that class of cases, where, but for technical rules, the claim might be for money or not, you would see no objection to the jurisdiction being made compulsory to the extent of 20*l.*?—If you could draw the line distinctly, and exclude from actions of tort, clearly and practically, that class of cases, I should see no objection to trying in the County Courts cases which were in substance cases of contract, but I do not see any practical scheme of drawing that line distinctly.

1125. Does your observation apply to cases where the plaintiff lays his damages at 20*l.*?—I refer to cases of actions of tort where the damages are above 5*l.* and under 20*l.*; cases in which you may now sue but are not compelled to sue in the County Court.

1126. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—No, I do not think so; I do not think that parties ought to be practically excluded from the superior courts in cases between those two sums.

1127. You think the concurrent jurisdiction should continue as it is at present?—I think it should continue.

1128. Would you still continue the right of appeal in cases between 20*l.* and 50*l.*?—Yes; I would continue the right of appeal in these cases as it is now limited.

1129. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I think it would be convenient.

1130. Up to the amount of jurisdiction that they have?—Yes.

1131. And subject to the condition as to appeal or otherwise?—In cases where right or title arises, it would be impossible to limit the appeal by the amount. I should think that in all cases in which a case was tried in the County Court, where a question of title arose, there ought to be a right of appeal, and that the appeal ought not to be regulated by the amount in dispute. I think the appeal ought to be wider in these cases than it is at present. I should be disposed to give an appeal, in cases where questions of title arose, upon the facts as well as upon the questions of law or the admission of evidence.

1132. Would you limit the appeal upon facts to facts essential to the question determining the title, or to facts occurring in the course of the inquiry, but hardly to be considered as essential to it?—If it could be done practically, I think the appeal ought to be limited to the facts essential to the inquiry; I do not think the parties ought to be concluded, if they chose to try in the County Court questions of title, by the finding of the County Court judge.

1133. Upon the facts?—Yes.

1134. How would you get at the facts; from the notes of the County Court judge?—It would be necessary to go to the judge and get him to state a case, unless the parties agreed.

1135. Would you go into the question upon affidavit, supposing the judge had not taken down what they supposed to be the facts given upon the trial, for the purpose of guiding the court above, or would you simply take the judge's notes?—One knows that notes are sometimes taken so shortly that if you confined parties to the representation of the case as it appeared upon the judge's notes, you might place them in a position which

F. P. Maude, Esq.

11th May 1854.

would deprive them of the right of appeal. In these cases, if the judge was unable or unwilling to state a case, I think that the parties might be allowed to supply the facts by affidavit.

1136. Would you make his conclusion the subject of appeal, as, for instance, upon the question whether a witness was to be believed?—I have not considered in what precise shape the appeal should be put in cases of this kind, but I do not think that the County Courts ought to have the power of deciding these questions finally. I think, if it could be done conveniently (and I think a mode might be devised), there ought to be a power in these cases of bringing the real question of fact before the higher tribunal.

1137. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation, under a will or settlement, is in dispute?—I would give the same answer to that question as I have given to the other.

1138. Is it desirable to repeal section 128 of 9th and 10th Victoria, chapter 95?—I think it is not; I do not see any reason why it should be repealed.

1139. What, in your opinion, is the cause of parties not having more generally availed themselves of the jurisdiction by consent under section 17 of 13th and 14th Victoria, chapter 61?—I think that there are several causes which have produced that result; one is the absence of a sufficient bar in the courts; another reason is, that the parties are obliged, in using this clause, to come to some agreement in the early stage of the proceedings, and there is a great difficulty in bringing parties to agree upon anything; I also think there is an indisposition upon the part of the attornies to use that clause when they may sue in the superior courts. In most cases the costs are larger in the superior courts, and their interest is to sue there.

1140. Is there any other reason?—There is a reason which would operate now since the matter has been found out; the Court of Exchequer has held that there is no appeal in those cases where the jurisdiction has been given by consent.

1141. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient, where the declaration required by section 121 of 9th and 10th Vict. c. 95, has not been made?—I have not seen any, nor do I know of any instance of its having been found practically inconvenient.

1142. Has any inconvenience arisen from the present practice in interpleader where goods are taken in execution?—I have not seen any instance in which any inconvenience has arisen.

1143. You have acted as deputy judge in several places?—Yes; in London these cases are very common in practice; I have never seen any inconvenience resulting from the present practice.

1144. Would you say that the judge might have power to amend when some merely formal objection is taken?—I think that if the proposed amendment does not interfere with the statutory rules, that power ought to exist. The rule to follow would be this, to see whether the opposite party was misled by the misdescription or not.

1145. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—My last answer will apply to that.

1146. It has been complained of as producing unnecessary expense, that there should be a lapse of ten days between the service of the notice and the hearing. Would you see any objection to limit that period to six days?—No; I know that the expense is very often much too heavy in these cases, and in practice it has been found to be hard; I think it would be wise to shorten the period.

1147. Is the jurisdiction to give possession of small tenements under section 122 of 9th and 10th Vict. c. 95. found to be convenient?—I think it very convenient; it is used in a great many cases, and operates very beneficially.

1148. Would it be convenient to extend that jurisdiction to tenements of greater value where the relation of landlord and tenant exists?—I think it would be convenient to extend the jurisdiction.

1149. Would you say to what amount, where the rent or the value is of a certain amount, or do you think it ought to be unlimited?—No; I do not think it ought to be unlimited, and I think that almost all these extensions should be gradually made; as matter of experiment, I should say, begin with 10*l.* or 20*l.* additional, and see how it works, and if it works well, then extend it further.

1150. Would you make it subject to an appeal?—No; I would not extend the right of appeal except in the cases of title to which I have referred. I think that one great reason why these courts have operated so well upon the whole is, that they really do decide matters finally, and the parties are saved the great temptation to which, in the superior courts, they so often yield of protracted litigation, in order to get rid of the first triumph which they arrive at. The cases are really disposed of and there is an end of the matter. I think that that is a very great advantage.

1151. Suppose a man has a summons to show cause why he does not give up possession, and he is to appear upon a certain day, and the defendant does not come, it is then a case of judgment by default, yet the landlord must come prepared with all his proofs, although the tenant makes no sort of defence; would you still continue that practice?—Yes, I think, upon the whole, that it is a good system that the landlord should be compelled to go into these matters carefully, and to prove his case. In some instances these cases are very improperly prepared; when the case is looked into, one sometimes finds that it has

been very carelessly got up by the attorney, and some substantial defect appears in the notice to quit, or some other fatal defect; as a general rule, I think, the landlord should be compelled to make out his case carefully. The recovery of possession summarily is a great boon to him.

1152. You would allow it to remain as it is now?—Yes; I would not give any extended power.

1153. Would it be convenient that the jurisdiction should be extended to cases of forfeiture, where the annual rent does not exceed 50*l*?—I think it would.

1154. Consider the question confined as it is now to the terms "annual rent;" if you let a piece of land, say 10 acres, at 60*l*. a year, and the person to whom it is let sublets that land, upon which houses may be erected to the value of 20,000*l*., the original lessee, possibly by concert with the landlord, may commit some forfeiture which would give the right to take possession, and with that forfeiture the subleases would all fall with him?—The relation of landlord and tenant would exist in those cases.

1155. But the sublessees could not help themselves as against the original landlord?—The difficulty with respect to the destruction of the first lease, and of the subsequent leases, would exist in cases where a ground rent was not paid.

1156. Take some other rent, not a ground rent, and the case of not insuring for instance.—In the case that has been put, of building houses upon the land, if the lease were forfeited by the non-performance of any covenant, it would be a covenant not performed by the tenant, the person in occupation, who is beneficially interested. If the building lease is granted in the first instance to A, and he assigns to B, as is usually the case in London, B, who occupies the house, is bound, as between him and A, to perform the covenants, but A is liable also, as between himself and the ground landlord. A has nothing to do practically with the performance of the covenants; he leaves this to B; if the lease is forfeited by a non-performance of a covenant, it is forfeited by the act of B, not by the act of the original lessee; legally the landlord would shape his case by suing A, for not having performed his covenant, although it is B, the man in possession, who has not performed it for him; he is the person beneficially interested, and practically there would be no great hardship in his being turned out, because he it is that has broken the covenant. It appears to me that in a great majority of instances, this right of suing in respect of forfeiture, would be similar to suing merely for non-payment of rent; that would be the general class of cases. A court of equity would, of course, relieve in these cases to the same extent as if the action for the forfeiture had been brought in the superior court.

1157. Is it desirable to repeal so much of the proviso contained in section 11 of 13 and 14 Victoria, chapter 61, as excepts judgments by default from the operatioin of the enacting part of the clause?—I think not; I think that the parties ought not to be deprived of the power of having a judgment by default in the superior courts if they choose to take the risk of going there. A judgment in the superior court has a very different operation from a judgment in the County Court, with respect to real property and otherwise; and I think that the parties should have the power of suing out a writ in the superior courts, and having a judgment there if they think proper.

1158. Take the case of an action for 2*l*., which can now be qrought in the superior court?—That is an action which ought not to be brought in the superior court, but the chances of failure and of defence are sufficient to operate generally to prevent persons from suing in these very small cases in the superior court.

1159. Would it be desirable that the County Courts should have an equitable jurisdiction to a limited amount?—I do not think it would be expedient to give them jurisdiction in matters which are peculiarly within the province of the court of equity, but I think they ought to have the power of dealing satisfactorily and finally with the cases that are brought before them; they ought to have the power of dealing with equitable defences, and, possibly, the power of granting injunctions without going for assistance to other courts; they ought to be as complete, to the extent of their jurisdiction, as may be the case with the superior courts not long hence.

1160. Do you think that power ought not to be conferred upon the County Courts until such a power is conferred upon the superior courts?—No; I think it should not, I think it should be done jointly with respect to both.

1161. You think the inferior jurisdiction should follow the superior?—Yes; I do not think that the County Courts could deal satisfactorily with general equitable questions.

1162. Would it be desirable to give jurisdiction in bankruptcy to County Courts?—I do not think it would.

1163. Will you state your reason?—The first difficulty to be got over is that of increasing the number of judges: they have sufficient to do as it is. There would also be a difficulty in applying the system of bankruptcy in the County Courts, unless they were County Courts which took that sort of business only, it would be difficult to attach to it the ordinary County Court and insolvency business throughout the country.

1164. Does any inconvenience arise at present from the insolvency and protection business having been thrown upon the County Court?—I do not think there does.

1165. Is not the jurisdiction of bankruptcy very similar to that?—It is a much more important jurisdiction. If you made the County Courts the tribunals to enter into questions of bankruptcy, I do not see that you would do any good by the change. I think

F. P. Maude, Esq.

11th May 1854.

it is more convenient practically that there should be distinct provincial tribunals, which deal with these questions as separate tribunals. I do not think any good would result from the proposed union.

1166. Would not the jurisdiction become more local, so that parties would not have so far to travel as they have at present?—That would be so to some extent certainly, but practically now the bankruptcy jurisdiction is very local. I do not think that there is any real demand for the increase of the number of tribunals in bankruptcy, because after all these are cases which are comparatively rare, and which occur in great cities, which are places which are now provided with such tribunals. It is not like the insolvency business, which arises all over the country, in little towns almost as much as in large ones. It would be very convenient doubtless to have tribunals everywhere and in every instance, but I think, considering the objection to multiplying tribunals, that increased tribunals in bankruptcy are not needed.

1167. Another difficulty has been suggested that the present bankruptcy court is stationary, and that if the County Court judge had jurisdiction in bankruptcy, parties would have to run about after him while he was on circuit?—I think the business is so important that it ought not to be thrown as an additional matter upon judges who have a great many important duties to discharge already.

1168. Would not that be obviated by increasing the staff?—You might get rid of the difficulty in that way, but I do not think that this would be more convenient than resorting to the tribunals which you now have.

1169. Would it be desirable to give jurisdiction to the County Courts in criminal matters now disposed of at quarter sessions?—I think not; in the first place it could not be done, without greatly increasing the number of County Court Judges, and displacing the present criminal tribunals, which upon the whole work well; you would also introduce into the County Courts a bad class of attornies, men connected with criminal matters; and there would be also this objection, that you would be mixing up criminal and civil jurisdictions; it would not be known whether a man had appeared in the County Court as a criminal or as a suitor. I think that the beneficial operation of the County Courts would be injured by their becoming a half criminal jurisdiction. You would find neither the criminal nor civil work so well done as if they were kept distinct.

1170. Would it be desirable to transfer to the County Courts the duties of revising the list of voters?—I think not; the present system is very expensive; but I think that the judges of the County Court ought not to have any *quasi* political power. It is, of course, most desirable that the office of the judge should not only be pure but unsuspected.

Adjourned to Tuesday next, at 12 o'clock.

Friday, 19th May 1854.

JOHN HERBERT KOE, Esq., Q.C., IN THE CHAIR.

J. L. Adolphus, Esq.

19th May 1854.

JOHN LEYCESTER ADOLPHUS, Esq., was called in and examined.

1171. YOU are a judge of a County Court district?—Yes.

1172. And have been so for some time?—From October 1852.

1173. For what districts?—Marylebone, Brompton, and Brentford.

1174. What is the number of your circuit?—Number 44.

1175. You have of course had a great number of cases before you in those districts?—A great number; from 1,000 to 1,500 in a month, in the three places.

1176. Would it be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court; and, would it be convenient that a plaintiff suing in a superior court, in an action of contract, and recovering less than 50*l.* should be deprived of costs?—First, as respects the judge, I think that any gentleman who is a judge of a County Court ought to be qualified to try actions of that larger amount, of the descriptions which the County Courts now usually try, whether of tort or in contract. I do not see anything in that suggestion that he should shrink from. With regard to the suitors there are two very important considerations, first, with respect to the time of the court, whether, supposing the enlarged jurisdiction were much resorted to, sufficient time would remain for the ordinary purposes of the County Court. This is a question which perhaps no one prospectively could decide; but I think it would be an evil if the result of the alteration should be that we were to have something like a special and a common jury list, and the special jury list were to put aside the other, so that the ordinary County Court cases came to be habitually tried by a deputy, or by an officer of the court, or in any other way more manifestly incomplete than the other cases. The probability of such a state of things deserves to be considered; but I cannot anticipate the evil with so much certainty as to say that the prospect of it is a positive objection to the proposal. A second question arises, which I think very serious, that is, with regard to the professional persons by whom these cases will be conducted. If the County Court is exclusively to try cases of the

J. L. Adolphus, Esq.

19th May 1854.

enlarged amounts—actions of tort in which the sum recovered may be 20*l.*, and of contract in which the sum recovered may be 50*l.*—cases must be expected to arise which will require to be got up by attornies of a superior class to the majority of those who usually practise in our courts now. For the altered system to work well, I think it would be necessary that there should be more encouragement given to attornies of this higher class to attend the courts; that those who attend them should, in certain cases, have such a remuneration as would recompense them more adequately than can be done at present for devoting a great deal of time and industry to the cause. An action of tort in which the damages in our court would be laid at 20*l.* (and in a superior court probably would be much higher) will often involve matter of such interest and consequence as would make it important that the witnesses should be marshalled, and the contingencies of the case watched in court, by persons of good professional education, and of much experience, (whether assisted by counsel or not), and it is hardly to be hoped that attornies so qualified, when they can only get from ten shillings to 2*l.* for acting and appearing in a cause, will attend to cases of this kind, or will bestow upon them the requisite care. If the present limits of the allowance to attornies were to continue, I think it might prove a grievance to the public that they should be compelled to try cases of the enlarged amount in the County Court. In saying this I am by no means intending to reflect generally upon the attornies who practise in my Court; there are some who would be competent to manage a considerable case, and who do their business very well; but even those who are so qualified could hardly be expected to bestow upon such cases all that care and attention which would be given to them in the superior courts, because their remuneration in the County Court is inadequate, and it ought not to be presumed, in public arrangements, that men in general will not, more or less, measure their exertions by their remuneration.

1177. Are you of opinion, then, that it requires more skill and judgment to conduct an action of tort where the damages are laid as high as 20*l.* than it does to conduct a case of contract where the damages are laid at 50*l.*?—Certainly not always; but I think difficult cases would oftener arise in the form of tort. An action of contract in the County Court is generally a plain straightforward action to recover a certain amount for goods or work; and in the general run of actions the trial is easier than in the other cases.

1178. Would not the same difficulties occur in actions of tort where the damages are laid at 5*l.*, as in cases where they are laid at 50*l.*?—The same difficulties might occur, and often do, as the courts are now constituted; but I think it is more likely, where the damages are laid higher, that there will be a contest, and a great anxiety about the result; the cases are more likely to be tried, and when tried, to be contested, and the parties are more likely to demand a jury.

1179. You are of opinion, then, that if the County Courts had this exclusive jurisdiction in actions of tort between 5*l.* and 20*l.*, the cases would not be properly conducted unless the attornies had a higher amount of remuneration than they would obtain according to the present scale of costs to which they are entitled in the County Courts?—I think many cases would not; I dare say some would: but I think that could not generally be relied upon, because it would not be fair to require an attorney, upon such a scale of remuneration, to bestow that attention upon a case which is given to it at Westminster or Guildhall: and when a thing is not fair upon the person, you must not expect very much from calling upon him to do it.

1180. Has your attention ever been directed to the costs incurred by a suitor in bringing an action of tort in the superior court in which a small sum is recovered?—I cannot speak as to that. I have read statements of the amounts.

1181. During your practice at the bar, and in your position as a reporter, has your attention been directed to the average nature of the cases of tort tried in the superior courts?—I am not aware that my attention has been particularly called to that.

1182. Are you capable of forming anything like a safe opinion as to what would be the average amount of costs that would be incurred in an action of tort tried in the superior courts, taking into consideration that the witnesses are frequently detained for three or four, and sometimes for five or six days, in town, before the case is called on, or at the assizes for two or three days; and that there is the attendance of an attorney, the attendance of one counsel, and probably of two, and that briefs have to be drawn, and consultations held? what would you say, under these circumstances, would be the general cost in an action of tort in which 10*l.* was recovered?—I could not form anything like an estimate without consideration and reference.

1183. Are you prepared to admit that it would be a very different amount from that which suitors would incur in a court where they would be summoned one day at ten o'clock, and probably have their case disposed of before twelve?—If many cases of this kind came to the County Courts, that would be a matter of uncertainty; it would then be something like a cause list at the sittings or assizes. Suppose there were three or four of what might be called fighting cases upon the list at the County Court, there would be the same uncertainty about their coming on, and others being heard after them, as there is now at the sittings or assizes. Much would depend, of course, upon how far the new system was acted upon by the public.

1184. Do you not think that a great deal of the actual time of the court in the superior courts is consumed by counsel making speeches to juries, and cross-examining witnesses with the view of stimulating juries, when it would not be necessary to go into

J. L. Adolphus, Esq.

19th May 1854.

that detail in a County Court?—When a case is tried without a jury, the course of proof may always be made more concise than when it is tried with a jury. When I have a jury I do not feel that I have the same control over the management of the case as I have when it is tried without. So far, the County Court has advantages for dispatch; but I anticipate that, in cases of the kind which it is proposed to introduce, juries would be more frequently required.

1185. Has it ever occurred to you that it is a great hardship to bring an action against a defendant for some trifling assault, laying the damages at 30*l.* or 40*l.* in the superior court, and recovering 10*l.*, the defendant in that case being bound to pay 10*l.* to the plaintiff for damages, and having to pay costs to the amount of 150*l.* or 200*l.*?—It is a very great hardship.

1186. Then, do you consider that it would be desirable, if possible, to remedy that hardship?—Certainly; I think it would be very desirable.

1187. Do you think that there would be a chance of remedying it by going before a tribunal where the proceedings were upon a cheaper scale?—No doubt there are cases in which that alteration is a great improvement.

1188. Are not cases of simple assault or false imprisonment, or cases of collision, the sort of cases that now come most frequently before the County Courts?—I have found cases of collision the most frequent. But if parties were compelled to bring actions in the County Court in cases where the damages were estimated at 20*l.* as the lowest, I think we should have more frequently cases of difficulty, and of a complicated nature than we have now.

1189. What class of cases do you fear we should have in the County Courts that would be of a more difficult and complicated nature than those that we have at present?—Perhaps I am incorrect in using the expression "complicated." I mean cases that would occasion more contest, and more accumulation of proofs, and would be disputed with energy on both sides, and with the strongest professional advice that could be obtained.

1190. The amount of jurisdiction is at present limited to 20*l.*, so that a plaintiff could never seek to recover more than 20*l.*?—No; but probably an action in which the lowest sum that could be recovered with costs in a superior court would be 20*l.*, would be an action which the plaintiff estimated at a great deal more than 20*l.*

1191. If he estimated it at a great deal more than 20*l.*, he would not bring it in the County Court?—Where there was no important right or permanent interest at stake, he would compound for the chance of getting 20*l.* A man having a complaint which he thought might entitle him to 80*l.* or 100*l.*, might say: "I will bring it into the County Court; if I get 20*l.* I shall be satisfied with such advantages as the County Court offers." Even under a considerable provocation, a plaintiff might say, "I do not think I ought to put up with this at less than 50*l.* or 100*l.*, but I should like to have done with it at once. I will go to the County Court, where I shall get 20*l.*, and be righted while the matter is fresh." And I think that motive would often induce persons to bring into the County Courts cases of more feeling and more difficulty than are now brought there.

1192. When you speak of difficulty, you mean as respects mere feeling? you do not mean to say that there is more legal difficulty in deciding a case of assault than in deciding a difficult construction of contract?—By cases of difficulty, I mean cases in which points of some nicety are to be determined and there is that array of witnesses on both sides which we know is often brought up where there is a great deal of anxiety, and temper has been strongly excited between the parties and their friends. I have had a case in which the damages were laid, I think, at 30*l.*, where the plaintiff had been bitten by the defendant's dog: there was a great deal of evidence: I do not say there was any legal difficulty, but it was a question not easy to decide, and occupying much time, and contested more tenaciously than those cases which persons in general would think much more important. And points do frequently arise in cases of similar kinds, which are rather difficult to determine, though the case in its nature may appear very simple.

1193. Do you mean points of law or questions of fact?—The questions of fact on which the law of such a case may turn; as in the instance just put, the habits of the animal, the knowledge of the defendant, and so on.

1194. Do you consider that in such a case as that the judges of the County Court would not be competent to discharge their judicial duties?—I think they would, I do not fear that at all.

1195. Then what is it that you do fear?—That the County Courts would more frequently have before them cases in which there would be a great deal of contest, a large array of witnesses, perhaps professional persons employed, contesting the matter somewhat keenly and often without sufficient skill or regularity, and a great deal of time would be occupied, so that that sort of business would too much exclude the other business of the court.

1196. What you fear is, that it would very much increase the labours of the County Court judge?—Not merely that; it would diminish the disposable time for the ordinary cases.

1197. That is, assuming that they have now as much business to do as they can get through?—Supposing that the time of a court was now pretty fully occupied, the result of this increase might be (I do not say it would), that they would be overcrowded. When I first came to my courts I thought it expedient, for the benefit of the suitors, to allot

J. L. Adolphus Esq.

19th May 1854.

some additional time to the business; and, unless prevented, I should be inclined rather to extend this reform than to go back from it. I believe I should consult the wishes and convenience of many persons by doing so.

1198. But you may assume that if there was such an increase of business conferred upon the County Courts, it would be necessary that an application should be made for additional judges, and that that application would be granted: the question is, Whether the County Court judges, irrespectively of their number and of the amount of business they now have to perform, could discharge those duties in a satisfactory manner?—I think that the County Court judges ought to be able to discharge those duties. As I have already said, the objections which occur to me are, first, that the Court might be overcrowded with business, which, in comparison to the general rate of business in Court, might be called special jury business; and, next, that the attorney attendance as it now is, or the exertions of parties in person, would not be adequate to the sort of cases that I think would come into the court under the supposed circumstances.

1199. You think that the attornies who usually practise in the County Courts would be incompetent to conduct that class of business?—There are a few, within my knowledge, who I think would be competent to conduct it, but whether they would undertake to do so on the present scale of remuneration I very much doubt.

1200. In what respect is it more difficult to conduct a case of tort than it is to conduct a case arising upon any mercantile transaction with respect to contracts, or agency, or such different forms of proceeding?—Some actions of contract are, of course, more difficult than some actions of tort, but taking the general run I think actions of tort such as, according to my experience, are likely to come before the County Court, are more calculated to occasion trouble to the attorney than the actions of contract which most usually come there. The action of contract for the enlarged amount would be perhaps for half a dozen shawls instead of for one, where the question is precisely the same in its nature, and the largeness of the amount would probably not increase the keenness of feeling very much, or require much accumulation of evidence. The case is likely to be different in an action of tort, where the higher damages are supposed to be the measure of a more serious injury, as in cases of collision or other damage of an aggravated kind by negligence, nuisance, destruction of animals with or without excuse, injury done by animals, and so on.

1201. And you think those are cases which peculiarly require great skill in the conduct of them on the part of attorney or counsel?—They are a kind of cases which would often give a great deal of trouble to the attorney appearing and acting in court, and who would have to select and marshal the witnesses; to know something of those on the opposite side; to watch the turns of the case as it went on, and to be able, from previous knowledge, to guide counsel, if retained, as to the proofs which should be relied upon, and the manner in which evidence on the other side should be met. In contentious cases of the kind I just mentioned, the attorney's business is one of difficulty and nicety, and would be more so in proportion as the stake was raised.

1202. Do you think that without that assistance the judge would be incapable of coming to a correct conclusion?—I do not think he would be incapable; it would throw great additional labour upon him.

1203. Then what you fear is, the additional labour to the judge?—I do not fear that so much as the probability there might be of his doing justice imperfectly, from the case not being well arranged, nor the facts brought to his attention in a luminous way.

1204. Do you think that it requires any very great skill to state the facts in a luminous manner, or to elucidate the facts from the witnesses in an action of collision, on the Thames for instance, or for running down a cab in the street?—Very often I think it does.

1205. And you think that a judge would be incapable of ascertaining those facts without the assistance of a cross-examining attorney or counsel?—Running down a cab in the street is generally one of the simplest cases; but in a case of collision on the Thames, I should say it required a great deal of knowledge of business to conduct the case properly; to arrange a numerous body of witnesses; to make the evidence bear well upon the points of fact and law; to bring out his facts forward convincingly to the judge; and not to embarrass his case by calling witnesses who would do no good.

1206. That is to say, who would do no good to the party calling them?—No; witnesses who would relate facts not bearing upon the issue or not in place in the particular stage of the case. I had an instance of this the other day, that was, to be sure, in a case of contract, but I put it as an illustration of what I mean. It was a case of an undertaker's charge for a funeral. The person buried had died unexpectedly, not in good circumstances; the executor under the will would not act, and the friends had amongst them bungled the affairs very much—one had done one thing, and another another; and the question was, whether A. B., or anybody, had made himself liable as an executor. The plaintiff appeared in person; he was a tradesman who, I believe, did not know there was such a thing as executor de son tort, but had only the idea that somebody was to pay his bill. He brought forward witness after witness, without, as far as I could see, producing the shadow of a case; and I prevented the defendant's attorney from cross-examining. From the third or fourth witness, however, it began to appear what the case was, and then I had, with great trouble, to go back into the preceding evidence and sift out for myself the facts which at length turned out to be material; and then to allow a cross-ex-

J. L. Adolphus, Esq.

19th May 1854.

amination of the witnesses who had been dismissed. In such a case as that, it is evident that not only much labour would have been spared, but justice would have been more satisfactorily done if the plaintiff had had an experienced attorney who would have brought the witnesses forward in proper order, and have let the court know from the outset to what their evidence was tending.

1207. Does not that case merely prove that there are some actions of contract which it is very difficult for the County Court judge to determine without having legal assistance? —I only put it as an answer to the question, what difficulty the judge would be under, generally from the want of an attorney and counsel in deciding a case.

1208. What greater difficulty would the judge be under in an action of tort than he is now in an action of contract, taking, for instance, the case you have put?—It appears to me that as the County Courts are now constituted, in point of jurisdiction, there are more actions of tort in which that difficulty would arise, than there are actions of contract. Taking actions all through Westminster Hall, I cannot say that difficulty is more likely to arise in one case than the other.

1209. You are speaking from your experience in your own County Court?—Chiefly so.

1210. Which is confined to that particular class of business that comes before your own court?—Yes.

1211. And which would vary considerably from the business in other courts?—Certainly it might; I do not pretend to know anything of the business of country County Courts. A great many of the most difficult cases of contract do not come to a County Court; at least not to mine; though we have some which, if not very difficult, require a good deal of care and attention.

1212. Has it ever occurred to you that trifling actions of tort are constantly commenced now in the superior courts by speculating attornies, who merely bring them for the sake of the costs?—I do not doubt it; but I do not know enough of that subject to state this as evidence.

1213. When you were in Westminster Hall it probably came to your knowledge, whether they were attornies of the first respectability, or attornies who did not rank very highly, who conducted cases of that nature?—Small cases of tort were very often not conducted by respectable attornies.

1214. Are you able to form an opinion whether, as a general rule, they were speculative actions brought by attornies for the sake of the costs, or whether they were *bonâ fide* actions brought at the instance of the client?—I should surmise that the first was frequently the case. I would not say it was a general rule.

1215. Do you think it would be advisable to put a stop to the frequency of that very gross abuse?—Certainly; there can be no doubt of it.

1216. Do you think it would have a tendency to do that, if you deprived the parties of costs if they did not prove that the case was something more than a mere legal tort; but that it was one of real damage, such as a jury would assess at 20*l.*?—I should hope that it would have some beneficial effect in that way; but whether that applies to actions between 5*l.* and 20*l.* I am sure I do not know.

1217. He would not bring his action, would he, unless he had good reason to suppose he would get the amount which would secure him costs?—I suppose not.

1218. Have you ever watched that particular class of cases, and observed how many there are, in which the plaintiff, as the law is at present, recovers 20*l.* from a jury?—No, I have not.

1219. Cannot you form any opinion?—Not any opinion.

1220. Should you say there was one in twenty in which they recover 20*l.*?—I should be very sorry to pretend to form anything like an estimate. I am far from saying that the adoption of the two suggestions put by the Commissioners would not be productive of good in various ways. I am only pointing out the difficulties that arise in my mind as to carrying them out.

1221. Those difficulties are two-fold; first, you consider that it would increase the labour of the judge?—I would rather disclaim putting it in that way; it would increase the demand upon the time of the court, perhaps to the disadvantage of the smaller suitors, and possibly with the effect of making the practice in general less accurate and satisfactory; but that objection does not press upon my mind so much as to be a reason for not trying the experiment. I throw it out as an apprehension, but the experiment might be tried, with that doubt. The other objection is, I think, the more serious one, as long as the practice remains unaltered.

1222. Can you suggest any alteration which would remedy the difficulty you complain of, and would induce attornies to come into the County Courts in such cases?—The alteration would be to allow the attornies a remuneration more proportioned to the sort of labour that is likely to arise in those cases.

1223. Then if the scale of remuneration to attornies was raised, and if the County Courts had time to get through the work, you think this would be a very advisable alteration?—Whether it is advisable as between the County Courts and the superior courts, to transfer a large additional class of cases from one to the other, I do not know. But if there was time to try all the cases, and if respectable men of business could be induced to bestow anything near the same attention upon the weightier cases which would

come into the County Courts as they do in Westminster Hall, I do not, as a County Court judge, see why the change should not be beneficial.

1224. If you were unfortunate enough to be a defendant yourself, your servant having run against a cart or carriage, and the damages were laid at 15*l.* or 20*l.*; would you rather have the case tried in the superior courts or in the County Court?—In such a case, if I went to my own solicitor, and said, "I have got this case in the County Court," and he said "I shall be happy to undertake it, and I will do the best I can for you, for the remuneration I can get there;" I should, perhaps, prefer being tried in the County Court (provided I were sure of not being put over from one month to another, as might be the case when heavy causes became frequent); but if my solicitor were to say, "I do not go to the County Court, it is not a place that I like; I do not get anything like proper fees, and I meet persons there who are taking inferior fees, and who are not men of business;" then either I must say to my attorney, "Oblige me by going to the County Court, and I will pay you there as I would pay you at Westminster," or I must employ somebody else.

1225. Which alternative would you decide upon—to carry on the case in the superior court, with counsel, attorney, briefs, consultations, with four or five witnesses kept for four or five days, at the tail of the special juries, running up to 150*l.* expense; or would you try the case in one of the County Courts, where you would have your case called on, and your witnesses examined, and the matter all determined by four o'clock?—It would depend very much upon the importance I attached to the case.

1226. Take the case of your carriage having run against a cart, and done damage, as the plaintiff would say, to the extent of 30*l.*, and which you say is not more than 6*l.* or 7*l.*; you cannot pay the money into court, and you have a disagreeable plaintiff to deal with: which court would you prefer in such a case?—In such a simple case as that I should very likely prefer taking my chance at the County Court.

1227. Do you think that other sensible persons would follow the same course which you as a sensible man followed?—In simple cases I think they would, but I would put another case. Suppose I were occupying premises, and had a neighbour who was in the habit of committing some very provoking and annoying nuisance—a case not of course involving any question of title; I might then be very unwilling to try that in the County Court, even with the advantage of cheapness and quickness, and all the rest of the advantages, because I should say: "The case is important to me in its result, though not in the amount of damages, and I had rather try it at Nisi Prius than in the County Court."

1228. But you would be the plaintiff in that case?—Yes.

1229. And in the other case you would be the defendant. Is it fair upon a defendant that in addition to the 5*l.* which he has to pay the plaintiff, he should pay 150*l.* to the plaintiff's attorney?—It is only to put the converse of the case I suggested just now. Suppose I had a very litigious neighbour, who was constantly annoying me in the exercise of what I considered my rights, by complaints and interruptions, and upon some dispute of the kind he sued me; I should very likely prefer making the superior court my umpire, if I could, in a case of that kind.

1230. Suppose it was only a question of 40*l.*?—I should probably think it a case of sufficient magnitude, if the matter were likely to cause a recurring grievance.

1231. You would apply this to a case of continuous damage?—Yes.

1232. Would you go to the County Court in the first instance?—Perhaps I might in the first instance, but upon the proposition now before the Commissioners, I must go there always.

1233. Would you not be more likely to obtain peace for the future by trying the case where the man would be liable to the exposure of his neighbours?—That might be so in one County Court, and not in another. The fear of neighbours would not operate much, I think, in a metropolitan court. The Commission will understand that in all my answers, I am not objecting to the two principal suggestions. I am only guarding them by stating the difficulties which arise in my mind, one of which I think is of vital consequence. I mean the want of proper professional men in sufficient number to conduct the larger cases which would be introduced.

1234. Or rather, the want of proper remuneration to professional men?—Yes; the present scale of payment keeps away, in a great measure, the more able and trustworthy class of professional men; first, because they do not get the payment they consider due, and secondly, because they are associated with persons who attend upon very trivial causes, for very small pay, and whose practice they do not approve of.

1235. Is there any reason why the practitioners in the County Courts should not have the same remuneration as the practitioners in the superior courts?—How far they should be entitled to the same remuneration is a point I am not prepared to determine. But I think that in causes between certain amounts, much might be left to the discretion of the judge.

1236. Assuming the causes to be cases where the assistance of professional men is required, is there any reason, as far as you can suggest, why the same scale of remuneration should not be allowed in the inferior courts as in the superior courts?—I do not see any at this moment, in cases of the enlarged amounts.

J. L. Adolphus, Esq.

19th May 1854.

1237. You would subject it always to the discretion of the judge as to what cases costs should be allowed in?—Certainly; because of course the chance of the higher allowance would operate as an additional bait to inferior practitioners to force themselves into suits in the County Courts, and to promote the bringing of suits, which is too much done already, with a view even to the small costs that are now allowed.

1238. But if there was a reasonably remunerative scale of costs established in the County Courts, subject to the discretion of the judge, would not that have a tendency to remove the evil which you fear might arise in consequence of the better class of practitioners being indisposed to come into the courts?—I think it would.

1239. It would therefore have a tendency to put an end to the present mischievous system of inferior practitioners promoting suits?—I suppose nothing will quite put an end to that, but it would encourage superior practitioners, and enable suitors to resort more freely to that class.

1240. As an abstract proposition, is there any reason why, if a man thinks his case a difficult one, with the permission of the judge, a remunerative scale of fees should not be given to the attorney; thus enabling the party, at the expense of his opponent, to pay for that assistance?—I do not see any reason. The original motive for putting these costs very low, was, I imagine, that the cases under the first statute were of small amount and of a very simple nature, and that cases of that kind, taking one with another, might, upon the whole, be safely trusted to the judge himself, and had better be tried a little roughly, without any very superior professional assistance, than that the defendant or that both parties should be burdened with large costs. But when you come to introduce cases of a superior description, you introduce with them the necessity of good professional assistance. If the proposed extension of jurisdiction takes place, there should be, for some cases, at all events, a larger scale, not only for the sake of the attornies, but also for the sake of the suitors themselves. There is one hardship under the present rules to which I would particularly draw the attention of the Commissioners,—that you cannot allow more than from 10*s.* to 2*l.*, if a case is adjourned once, twice, or oftener, however blameless the attorney may be in that delay.

1241. May it not be increased by consent?—I am not clear as to that; and even if it can be done by consent, it is a hardship that this should have to be made a matter of stipulation.

1242. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I am very much inclined to think that that is premature. I question much if the County Court system is yet ripe for such an enlargement of jurisdiction, and for dealing with the vast questions which it would sometimes introduce. I will not say that a County Court judge ought to be afraid of having to entertain such cases, and of course he would bend his best exertions to this duty if required of him. But the alteration would open the County Courts not only to disputes between individuals upon questions of right more or less simple, as of boundary or watercourse, but to others, affecting great numbers of persons, as of franchise, custom, and public right of way, which sometimes raise the most difficult points in the law, and which parties would often require to have tried by juries; and I cannot help doubting whether the County Courts, with the pressure which many of them now have upon their time from their ordinary business, and with the limited professional assistance they receive under the present system from attornies or counsel, are in a situation fairly to meet these difficulties. The proposed alteration gives to the County Courts a share of the nicest and most arduous practice that now devolves upon any judge of a superior court at the sittings or assizes. If it were introduced, there must, at all events, be a great deal more latitude given to appeal; at present there is no appeal to the superior courts, except on a wrong determination of the case in point of law, or an improper admission or exclusion of evidence.

1243. You would permit a judge to allow either party to appeal, in case, in his opinion, it would be proper to do so?—Yes; and I think that, even without his opinion, it should be allowed.

1244. You think it doubtful whether, at present, this alteration would be expedient?—Yes; and in this class of case the pecuniary amount would not be of any great consequence, because as difficult a question constantly arises in a case of forty shillings as in others.

1245. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?—The observations I have made in answer to the third question apply in a great measure to this also.

1246. You would answer both those questions in the negative?—If I had to decide by a mere negative or affirmative, I should answer them in the negative.

1247. Supposing the opinion of the County Court judge to be made subject to an appeal: if any one of those questions arose, no matter what the amount might be, would you object then to let the court have jurisdiction?—It would be necessary that there should be an appeal in almost or quite as many cases as there is now liberty for moving for a new trial in the superior courts.

1248. But in cases where nothing but the facts were in dispute between the parties, although there might be also a question as to the title, would you allow an appeal on

J. L. Adolphus, Esq.

19th May 1854.

matters of fact as well as matters of law?—It is not enough that the matter in dispute should be fact only. Every gentleman in the profession knows that there have often been causes relative to boundary, pedigree, legitimacy, and other questions, in which the controversy did not involve much law, where a mass of evidence, occupying perhaps two or three days, has been submitted to a judge and jury, and the court, on motion for a new trial, has felt dissatisfied with the decision, though not called upon to overrule it on a point of law, and the case has been retried, sometimes more than once. That is attended with hardship and inconvenience in any court; but it would also be very hard and unsafe that, in the County Court, such cases should be settled conclusively by the opinion of a single judge. I would not presume to suggest that any County Court judge now on the list may not be capable of trying these cases, but it may be supposed without disrespect that some, especially if they had for a good while quitted Nisi Prius practice, might feel it a surprise, and a demand which they were not bound to expect, if they were at once called upon to try some of the most difficult cases that can come before a judge of one of the higher courts at the sittings or assizes.

1249. But if a general right of appeal was given to the parties, how could they ultimately be damnified?—Where the County Court judge might feel reluctance or dislike, the public might probably feel distrust.

1250. Might not the County Court judge, with or without the assistance of a jury, at the option, of course, of the parties, alone find the facts? and upon a case being submitted to the court above, might not the right to try this class of cases be given?—The judge should have the right also of submitting any incidental question of law to the superior court; for though he would only have to find facts, it is well known that, in trying such cases as I just now alluded to, the court does sometimes meet with the most difficult questions in the law of evidence.

1251. Do you think that all questions of title to corporeal or incorporeal hereditaments should be tried in the superior courts, however trifling in amount?—No; I think there are some questions of title which might well enough be tried in a County Court.

1252. You think that to a certain extent the County Courts should have jurisdiction to try questions of title?—In some cases it might be convenient, but I should limit it very closely.

1253. Can you suggest any limit?—No; but I can mention an instance in which the practice might be useful. Very often, in a case of use and occupation, it is suggested that some other person than the plaintiff is entitled to the rents. The answer is easy if the man has paid rent to the plaintiff or otherwise adopted the relation of tenant to him; he cannot then dispute the title. But where this cannot be shown, it might be well that the judge should be able to inquire who is landlord, and not send the case to another court. But if I allowed privileges of this kind, I should circumscribe them narrowly, considering what County Court practice as yet is, and the importance of the result where title is finally adjudicated upon. I may remark, by the way, that although the legislature has not yet trusted the County Courts with the trial of title, the Succession Duty Act seems to give them jurisdiction over questions as full of nicety as would be raised on most trials of title. But the result there is not of such lasting importance.

1254. You are of course aware that the County Courts at present have jurisdiction to try questions of title in cases of replevin?—Yes.

1255. In your large practice as judge of one of the metropolitan courts you have a great number of cases of replevin?—No; I have only once heard replevin mentioned in the course of my experience.

1256. Then you have no means of forming an opinion whether it has acted prejudicially giving the County Courts jurisdiction in cases of replevin?—I have none at all.

1257. Do you not consider that the present law—which drives a person who claims a title to a corporeal hereditament, however small the amount claimed may be, into one of the superior courts,—is, in a vast number of cases, a practical bar to the establishment of the right?—I think very likely.

1258. Do you not think that that is a very great practical evil?—I think it is.

1259. Do you not think that that would be remedied by enabling County Court judges to determine those trifling questions?—That evil would be remedied of course.

1260. Do you see any evil of a greater magnitude that would be introduced by the adoption of that practice?—Greater evil might arise from the trial of important rights with inadequate means of trying them, and a frequent dissatisfaction with the decision of the judge.

1261. You are of opinion then, that the County Courts would not be able to do substantial justice in the great bulk of cases that come before them, but that they would in the large majority of cases do substantial injustice?—I do not say they would in the bulk of cases. But I think there would be cases that the County Courts would hardly be adequate to.

1262. Supposing there are a hundred, which are now cases of so small an amount that persons are practically debarred from trying the right at all, do you consider that the establishment of a court which in ninety cases would do justice, and in ten would do injustice, would be practically an evil to the suitors in the country, or ought to be regarded in that light?—That is a question which any one else is as well able to decide as I am. The worst is, if it is supposed that ten cases out of a hundred are decided wrongly, nobody is

J. L. Adolphus, Esq.

19th May 1854.

quite sure which ten they are, and persons may suppose that any one of the hundred may be one of the ten.

1263. Do you not think it more desirable that they should be determined by some authority, though not of the very best description, than that they should not be determined at all—is not imperfect justice better that no justice at all?—That is more than I wish to decide.

1264. Taking these two questions together, do you think, an appeal being allowed, questions of this description would not be tried at a less expense by first going to the County Court, and then to a superior court upon appeal, than if they were originally tried in a superior court?—If the judgment of the County Court was reversed, the parties would have to go again; the trial in a superior court would perhaps be more likely to settle it once for all. As I have already said, I do not object absolutely to the trial of questions on title in the County Courts; there are some that might perhaps be very well tried by the County Courts: a greater latitude of jurisdiction might be given if an option were allowed; and I presume parties would still have the privilege of applying to a superior court to remove a cause by certiorari.

1265. On account of difficulties?—Yes.

1266. Do you think you can conveniently have an appeal on matters of fact?—I think it would be no more difficult than on motions for a new trial; it would be very inconvenient and laborious to the judges of the superior courts, but they would have the judge's notes, as the court at Westminster has on a motion for a new trial, and the result of an appeal on matter of fact would be to grant a new trial.

1267. If they thought the judge, on the whole, had not drawn a reasonable conclusion?—Yes.

1268. In cases of appeal on matters of fact, you suggest that the motion should be founded not on the representation of the moving suitor as to what the decision of the judge had been, but on the production of the judge's notes only?—That would depend upon how the courts at Westminster would take it. The courts there take the notes of a judge at Nisi Prius as the notes of one of themselves, and will not allow them to be gainsayed. In cases from before the under-sheriff, they have an affidavit to verify the judge's notes, and they do, I believe, allow collateral evidence of what passed before the under-sheriff. Whether they would treat us as judges or as under-sheriffs for this purpose, I do not know?

1269. Would it not be inconvenient if the motion was made without the judge's notes, if it were a motion on affidavit?—I think it would be inconvenient in the highest degree if, upon the motions supposed, there were to be a controversy on affidavit as to what had passed before a County Court judge.

1270. Do you think it would be desirable that the County Courts should have jurisdiction in cases to some limited amount affecting title, if you were to give the party sued a general right of removal to the courts above, upon giving security for the costs?—It would take away some objections; but it might sometimes be a case of great hardship that a poor man should be called into the County Court to defend important rights, and precluded from trying elsewhere because he could not give security for costs. The best safeguard, I think, is the power of the superior court to grant certiorari.

1271. And that they do without reference to the means of either party?—Yes. And this ought to be so; for, as to the greater and more difficult cases of title, I do not think the present machinery of the County Courts is adequate to dispose of them.

1272. At the present moment you are aware that under the general ordinary Acts of Parliament affecting the County Courts, the power of the County Courts to try title is positively and by statute excluded, and consequently, consent in the ordinary sense would not give jurisdiction?—It would not.

1273. Do you think the machinery of the 17th section of the extending Act might not be conveniently adopted; that where the parties come to court, both honestly intending to contest it, if the parties sign such a consent as is required in cases of title under the 17th section, then the judge, having got the parties' proper memorandum entered on the minutes of the court, he might proceed to try, and the consent so given should operate as a partial repeal of the title clause, so as to enable the judge to try the cause effectually?—I think that might be a very useful suggestion, provided that the judge had power to dissent.

1274. Is it desirable to repeal section 128 of 9th and 10th Victoria, chapter 95?—I do not know whether any ulterior remedy is contemplated; merely the repealing that clause seems to leave a hardship. It is a hardship if the plaintiff is to be obliged to follow the defendant to any distance, or if there are to be no means of trying in the superior court when the judge or an officer is party.

1275. The suggestion in that case would be that the action should be brought where the cause of action arises in the particular case?—Subject to much control by the County Court judges, the alteration might be a proper one.

1276. Would you apply the same answer to cases where the cause of action or the material part of the cause of action has arisen in the district?—Perhaps so; but the question as to material cause of action arising in one place or another is often a very nice one.

1277. It has been suggested that it would be convenient that the plaintiff should have an option where he is an officer of the court, or subject to a liability as officer, to sue or be

J. L. Adolphus, Esq.

19th May 1854.

sued in the superior courts if he chooses, so that he might either make use of his own court or he might go to the superior court?—I think that the bulk of cases would be against the officers of the County Courts; there are not many cases in which the County Court officers are plaintiffs. It has occurred to me that if a judge of a County Court, resident in his own district, was sued for however trifling a sum, he could not be tried except in a superior court; he could not be sued before himself or his deputy, and he could not be sued in another district.

1278. Would there be any objection to a man being sued in some adjoining district to his own?—I think the judge of the County Court would not object to it. In questions arising out of proceedings of the court, the officers, as I gather, would dislike to have their practice judged of by the officers of other County Courts.

1279. Taking the broad view, you think that part of the law had better remain?—I should say that it had better remain.

1280. What in your opinion is the cause of parties not having more generally availed themselves of the jurisdiction by consent under section 17 of 13th and 14th Victoria, chapter 61?—The fact I believe differs in different courts; I understand that in Liverpool they have availed themselves of it very much. I am inclined to think that the adopting or not adopting a particular mode of procedure is in some degree a matter of routine; persons are very slow to go out of the common course of things; at Liverpool it happens they have always been very much in the habit of agreeing to reference under every system, and therefore it occurs to them naturally to make what I may term an artificial court, when in other places people do not think of it. But there are other reasons I think; the want of appeal and the want of professional assistance. I have never known an instance in my court of the consent clause being acted upon.

1281. Is another reason that you cannot get the two litigant parties together?—That is a very strong reason; in a place like Liverpool, where men meet on the Exchange, they see each other, and agree more readily. Business differs in different courts in that respect. On one of the first occasions on which I sat, there was an action between two gentlemen on some matter of business to a moderate pecuniary amount; and when they came face to face one said something, to which the other answered, "I did not understand so and so; if it is as you say, I misunderstood you;" and they got into a little discussion. I said: "Is it possible that you two gentlemen have never seen each other on this matter before you came here?" "No," they said, "we really have not." I then said "Had you not better step out of court and confer upon it?" They went, and returned perfectly well agreed, and consenting to an order, which I made without further trial. As I have mentioned Liverpool, I think it fair to say that the fact of the gentleman who is the judge there being very well known in the town, and there being great confidence reposed in him, may very likely operate as one reason of the clause in question being frequently acted upon there.

1282. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient where the declaration required by section 121 of 9th and 10th Victoria, chapter 95, has not been made?—I have had but one case of replevin in my Court, and that not tried; and I cannot give an answer to that question.

1283. Has any inconvenience arisen from the present practice in interpleader where goods are taken in execution? and have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—I think the authority of the County Court in cases of interpleader requires to be more clearly defined that it is by Stat. 9 & 10 Vict. c. 95. s. 118. and Rule 145, the provisions of which are not nearly so precise or comprehensive as those of Stat. 1 & 2 Will. 4. c. 58. It has several times happened in my districts that notices of claim have been defective or not served in time. Until lately I have supposed that, in such cases, the claimant was barred; and I am informed that my predecessors have acted on that assumption; but, by late dicta in the Court of Exchequer (if correctly noted), it appears to be the opinion of some learned judges, that the claimant ought not to be finally concluded on this ground, and that the County Court judge is bound to adjudicate, at same time, upon the merits. I should be very glad to be guided on this subject by the actual decision of a Superior Court; but at present there appears to me much difficulty in giving effect to the opinions alluded to. The County Court judge cannot dispense with the required notice; can he amend it? The object of the notice appears to be twofold; first, to give the execution creditor and the officer of the court an opportunity to investigate the claim, and secondly, that some permanent memorial may appear among the records of the court, showing on the face of it how the bailiff was justified in giving up to A goods taken in execution by B. For the latter purpose an amendment as to matters of description might be effectual; but a notice not in time cannot be made so by amending it. I do not perceive any authority for adjourning the summons, the claimant not being in court; there is often great inconvenience, always expense, in prolonging the custody of the goods; and, if the law be that the judge must adjourn because he is bound to adjudicate, I question if he can make it a condition of adjourning that the claimant shall pay the bailiff's expenses. To issue a new summons is a step, as far as I can see, not warranted by the rule or statute, and the same question arises as to intermediate expenses; and if it is asked how many times the judge shall be bound to direct new summonses, the answer is not easy, unless it be toties quoties. From

J. L. Adolphus, Esq.

19th May 1854.

what I have seen of interpleader cases, I am inclined to think that strictness on the subject of notice is not unreasonable; but at all events, I think there should be some express enactment that the claimant not giving timely or specific notice should be barred, or else, that the judge should be at liberty, or be bound, to take such and such steps on default of a due notice. A power might, perhaps, be given to amend the notice as to errors of description by which the officer or the execution creditor could not have been prejudiced or misled, a point which the local judge has much better means of deciding than a Superior Court on motion. And I think the County Court judge, upon interpleader, should have the same general authority as the Superior Courts have under Stat. 1 & 2 Will. 4. c. 58. ss. 1. 6. to make such rules and orders as to costs and all other matters as may appear just and reasonable. I would also submit for consideration whether it might not be expedient that, on a claim being allowed under the interpleader clause, the court should have power to award the damages, if any, claimable for the taking, without a separate summons; but if so, there ought to be a right of appeal, which there is not, according to a late decision, in the case of an ordinary interpleader.

1284. Is the jurisdiction to give possession of small tenements under section 122 of 9th and 10th Victoria, chapter 95, found to be convenient?—I think it has been found very convenient, and is a most beneficial practice; I think there are one or two amendments which might be introduced into it, particularly one to prevent the landlords being turned round as they often are, because they have not given a right notice: if power were granted to the court, under fit circumstances, to allow a proper notice to be given on terms, though legally out of time, the case standing adjourned.

1285. Would not that give rise to a very lax proceeding with respect to the notices?—It might do so; I allow that it requires consideration. But I should not be much afraid of giving such a power, where the error was a mere slip. I do not mean, of course, that the tenant should be obliged to go out sooner than in justice he ought; but that there should be some power to prevent the landlord from being kept out of his premises for a year or a year and a half merely from a mistake in his notice. In the County Court, and in a proceeding intended to give summary relief, this ought by some means to be prevented. It has frequently happened before me, that roguish tenants, having no defence, have got some sharp practitioner to keep the landlord out of possession, or at least force terms upon him, by attacking his notice.

1286. Would it be convenient to extend that jurisdiction to tenements of greater value where the relation of landlord and tenant exists?—I think it might be extended; preserving a limit. But the remedy is less likely to be wanted as the amount becomes higher.

1287. What limit should you think proper?—I am not prepared to fix a limit: I should think that it might be extended to 100*l.*

1288. Would it be convenient that that jurisdiction should be extended to cases of forfeiture where the annual rent does not exceed 50*l.*?—That is a very different question indeed. I have several times had attempts before me to raise questions of forfeiture, which I have always resisted, being of opinion that the present law does not allow it; and I think it ought not to be allowed, at all events without an appeal. In the ordinary cases, under the possession clause, I believe there is no appeal, unless by action. If questions of forfeiture were tried under the possession clause, there should be a direct appeal. And, as to all cases under this clause, I would suggest that it should be made clear, which I think it is not, whether in those cases there can be a jury or not. I tried one such case with a jury; I was urged to do it in a case of Lord Harrington, about which there was afterwards a good deal of litigation. The tenant demanded a jury, and I tried it with a jury, but took care to declare my own concurrence (whatever it might be worth) with the finding of the jury. If cases of forfeiture were to be tried by the County Court, I think either party should have the option of summoning a jury, because the question of forfeiture may introduce some of the most important and nicest questions. And if forfeitures were to be tried on possession summonses, I should not be for extending the jurisdiction as to amount unless there were a general extension of County Court jurisdiction with such guards as have been already mentioned.

1289. If jurisdiction were given to the County Court, then if the tenant was dissatisfied, he might bring an action of trespass against the plaintiff in the County Court, as he is now allowed to do in cases of landlord and tenant?—Yes.

1290. Suppose there is land on which there is a reserved rent of 50*l.* on a lease for ninety-nine years, and that lessee for ninety-nine years, or any given time, sublets for building purposes, and by means of that building, the land, instead of being worth 50*l.* a year, might be worth 5,000*l.*, and an act on the part of the original lessee, carrying forfeiture, would affect all the under lessees. If you give jurisdiction in these cases, should you not put it that the annual value of the tenement sought to be recovered, should not be above a certain amount?—Under the present clause, a majority of the judges of two Courts held in Lord Harrington's case (on motions for prohibition) that the County Court has jurisdiction if either the rent or the value is below 50*l.* If the jurisdiction were extended to forfeiture, perhaps the limitation ought to attach if either rent or value exceeded a given amount. And there should be an option of trying by jury, and an appeal. It should be remembered, however, that there is always the remedy by certiorari.

J. L. Adolphus, Esq.

19th May 1854.

1291. Is it desirable to repeal so much of the proviso contained in section 11 of 13 and 14 Victoria, chapter 61, as excepts judgments by default from the operation of the enacting part of the clause?—Certainly; if section 11 is to be enforced for the purpose of making parties go to the County Courts, you ought to stop that loophole, and even make the stoppage more effectual by excluding consents, or any mode in which parties may escape the proper jurisdiction.

1292. Would you see any objection to the practice of payment by instalments being abolished in cases where the sum exceeds 10*l.*, unless with the consent of the plaintiff?—I should be unwilling to do so. The exclusion would bear generally upon persons in apparently respectable positions in life; but there are a great many cases in which persons so situated make application to pay by instalments, and it is surprising to see how often the appeal is well founded.

1293. Do not you find that the plaintiff is willing to consent, so that he is secured?—Generally they are wonderfully willing to consent; so much so, that I very seldom make an arbitrary order for payment by instalments. I endeavour to make the plaintiff act under the impression that it is his own doing. They are generally very good-natured.

1294. Would it not take away some of the objections that have arisen to restricting the judge's discretion to cases under 10*l.*, if you allowed it to be exercised with the consent of the plaintiff beyond that amount?—I do not think the discretion of the judge ought to be so limited. In my experience there are a great number of cases above 10*l.* that are quite as fit subjects for indulgence as below 10*l.*

1295. And where the plaintiff would not give it?—Where perhaps the plaintiff would not give it; where the defendants are in situations above the meanest, and may have held themselves a little high, and have rather mortified the plaintiff; persons that have fallen into bad circumstances from some cause or other which does not prevent their being really objects of indulgence, though the plaintiff may not be willing to allow it. The case, for example, is not uncommon where persons keeping lodging or boarding houses, and who at some period were in good circumstances, have run too deeply into tradesmens' books, and suddenly, from circumstances not foreseen, become liable to judgment for sums which they cannot pay. This is sometimes the case of a widow in a decent station of life who has perhaps not been prudent enough, or had much experience. I have seen cases of that kind above 10*l.*, in which it appeared to me quite as fitting to give indulgence as where the amounts were smaller.

1296. Is that not given in many cases at the expense of the plaintiff?—It may be; but on the other hand you sometimes do the best for the plaintiff by such a proceeding. That will occasionally be so; for example, where the defendant is receiving a small fixed salary. My objection is to drawing a line at any particular sum, for circumstances will constantly baffle your rule: whether you should ever do it at all is one thing, but at any rate you should not do it with reference to a particular amount.

1297. Have you considered the last three or four questions?—At this late hour I must say in a word; as to equitable jurisdiction, I see no difficulty in giving some such jurisdiction for purposes ancillary to those of the County Court as a court of law; such as the power of granting injunctions. Specific performance would be attended with some difficulty for want of means, according to the present organization of our courts, to inquire into and enforce performance according to the order; but there are simple cases to which this objection would not apply. As to the other three questions, I should be strongly against giving the proposed extensions to a metropolitan court such as mine, already crowded with business in most months, and which requires more time allotted to it, and not less. Thus, as to bankruptcy, (if that addition is contemplated for the metropolitan courts,) I think we have enough to do without it. To a criminal jurisdiction there is not only the same objection, but I think we should make the court offensive to the other suitors, and that we should require a distinct machinery of clerks and other officers, which we are not at present provided with, and which would greatly reduce any supposed public saving. And as to revising the list of voters, it not only would embarrass if not disable our courts with respect to the other business at the particular time of year, but would lay us under a prejudice by mixing us with politics.

Adjourned to Tuesday next, at 12 o'clock.

Tuesday, 23d May 1854.

HENRY SINGER KEATING, Esq., M.P., IN THE CHAIR.

GEORGE BRAMWELL, Esq., Q.C., examined.

George Bramwell, Esq., Q.C.

23d May 1854.

1298. You are a member of the Common Law Commission?—Yes.

1299. And also of the Commission upon Mercantile Law?—Yes.

1300. Would it be convenient that a plaintiff, suing in a superior court, in an action of tort, and recovering less than 20*l.* should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court?—There are two things in this question to which I would call attention. The expression is "recovering less than 20*l.*," which would imply that a man recovering 20*l.* does get his costs; I think in an action of contract he does not get his costs for 20*l.* Next, I suppose that the question assumes that there would be the same exceptions in actions of tort as there are in actions of contract, so that the question is meant to be, Would you put actions of tort to which the jurisdiction extends, upon the same footing as actions of contract, with reference to the amount for which there should be a compulsory jurisdiction? Assuming that to be the question, I have no hesitation in answering it in the affirmative. I think it would be a very desirable alteration; and the way in which it strikes me that it may be put is this: It is not necessary to determine precisely what the principle of the jurisdiction of the County Courts is, but it is quite certain that it is something like this, at all events; that they are to have an exclusive jurisdiction to a certain extent, beyond which the parties are not bound to frequent those courts. I cannot see any reason why actions of tort should be excluded from the jurisdiction, because I do not think that difficult questions arise more frequently in actions of tort than in actions of contract, especially when we consider the qualifications which at present subsist in the statute as to the jurisdiction—that is to say, jurisdiction will not attach where what you may properly call rights come in controversy. Bearing that in mind, I do not think that questions of greater nicety would arise more frequently in actions of tort than in actions of contract. Indeed, I should say that there was almost more reason for giving a jurisdiction in actions of tort than in actions of contract, because in criminal matters a great deal is confided to country magistrates, gentlemen as to whom one may say, without any bad compliment, that they are not so competent as the judges of the County Courts; and there is much more analogy between actions of tort and criminal cases than between actions of contract and criminal cases. Take, for example, the case of trespass to the person; that may be made the subject of civil or criminal proceedings, at the option of the party who is ill-used. Take again, trespass to land or goods; that may be made the subject of civil or criminal proceedings; yet nobody supposes that the magistrates are so incompetent to decide these matters, as to have any notion of taking the jurisdiction away from them. I think, therefore, as well as one can judge, that actions of tort (bearing in mind the exceptions that are contained in the Act of Parliament) present fewer questions of difficulty than are presented by actions of contract. Then, whatever reason exists for confiding actions of contract of a certain amount to the County Courts equally applies to actions of tort. I should add further, as every one knows, that there are more vexatious actions of tort brought for the purpose of putting costs into the pocket of the attorney, than there are actions of contract. Upon the whole, therefore, I should be inclined to say, that assuming the jurisdiction is good in actions of contract, to the extent of 20*l.*, which I need not say that I do assume, I think it would be still better in actions of tort.

1301. Does it occur to you that this distinction might exist between an action of contract and an action of tort; that in an action of contract the sum to be recovered is generally ascertained, whereas in an action of tort it is extremely difficult for the party bringing his action exactly to assess the damages to which he may be entitled, although the penalty is the loss of costs?—That is the distinction; after all it is a penalty for being in the wrong, and if that is, to a certain extent, a hardship upon the plaintiff, the other state of things is an equal hardship upon the defendant.

1302. In your experience have you not observed that the view which juries take of an action of tort (the case of an assault, for instance,) varies very much indeed upon nearly the same state of facts?—Certainly I have, even in cases of more important injury than that; in the case of a railway accident you will find a common jury in the country give 10*l.*, where a London special jury would have given 200*l.* under precisely the same state of circumstances.

1303. Where you are giving a jurisdiction to an inferior court, and imposing a penalty upon a party for being wrong in the selection of his tribunal, do not you think that the certainty in the one case and the uncertainty in the other ought to create some difference in the amount?—No, I do not, indeed; because, as I said before, after all the plaintiff is in the wrong, he has over-estimated his injury, and he pays the penalty, and I not see why he should not do so. You do not take away the costs from him because he has committed any offence in going to the superior court. I apprehend you simply take away his costs

because it would be unjust to the defendant to make him pay the costs of an expensive tribunal, for which the case was not fitted. If a man makes a mistake which is to entail a hardship upon himself or somebody else, it seems to me that he is the right person to suffer.

1304. In your experience have you found many cases in which a man might reasonably expect to recover more than 5*l.*, or more than 20*l.*, in which the jury have given ridiculously low damages?—Yes, I certainly have, and particularly under the present system, where the plaintiff is called as a witness. In cases of assault, or of slander, (which is not within the purview of the present question,) you are obliged to call the plaintiff, because if you do not, comments are made upon his absence; the defendant's counsel has the last word, he calls no witnesses, but he asks the plaintiff a variety of irrelevant questions upon irrelevant matters; a speech is made to the jury; perhaps they are induced to laugh, and the damages are cut down to a trifle, so that the plaintiff sustains an unreasonable injury. I apprehend, however, that you would have this safeguard, that the judge might have a power in all cases, of saying whether the action was a fit one to be brought in the court in which it was brought. And you must also look at the proposition as a whole, and see whether or not it is unreasonable. Actions are brought now where a man recovers some 5*l.*, 8*l.*, or 10*l.* I could name a case which you would call an action of tort, it is this, an action upon the warranty of a horse; but the party who draws the declaration has adopted the common law procedure form, which is that by warranting a horse it was sold; the defendant has pleaded not guilty, and the plaintiff has recovered 14*l.* There is no doubt that that is an action of contract in reality, but it is in form an action of tort; if it is an action of contract the plaintiff will get no costs; if it is an action of tort he will send in his bill for 140*l.* That at least is an irrational distinction, and indeed it is a matter at present under discussion whether it is an action of tort or an action of contract.

1305. That of course would be an exceptional case; but looking generally at actions of tort, such as would be likely to be brought in the County Courts, are you of opinion that, considering the uncertainty of the amount of damages which would be awarded in actions of tort, the same rule should be applied to a plaintiff suing in the superior court in an action of tort as should be applied in an action of contract?—That is my impression, and very strongly so; the question rather points to this, that what one may call sentimental actions should be excepted, that is, actions for injury to a man's person, where occasionally the damages given have no reference to the physical injury he has sustained, but to something else—those actions might be excepted. Supposing that argument should prevail in the judgment of those who have the determination of such questions, whether they are excepted or not, I own that I have a strong impression that these actions of tort for small amounts are of a very vexatious character in many instances, and although no doubt particular cases of hardship to a plaintiff will occur, where he is deprived of a reasonable amount of damages by such circumstances as I have adverted to, or from prejudice in the minds of the jury, because he may belong to some class which is hateful to juries, of which we know there are several; the proper course would be to have a certificate from the judge, and, as I have observed, you must treat this as you would every other question, as a whole.

1306. Have you observed in your experience that judges are extremely unwilling to give a certificate in cases where the damages are under the proper amount?—I certainly have noticed that, but I am very much inclined to think that it is part of a general unwillingness to interfere; they always have a sort of impression that some cause for interference ought to be shown to them. I will exemplify what I mean, in this way; before the passing of the Common Law Procedure Act there was a power for judges to grant a speedy execution. They did not in many cases grant certificates; they gave no reason why they did not, but simply declined—they always wanted some special reason given to them for doing so. I do not mean to say that was the case in every instance, for in the case of a bill of exchange it was not; but no one thought of asking for speedy execution in any case which was not in the nature of an undefended cause. If a man recovered 100*l.* in a case of false imprisonment, and you asked for speedy execution, you would immediately be asked why, and have to give a reason for it. Now, execution follows as a matter of course, unless the judge certifies that it should be stayed. You ask him to stay the execution, and he makes the same remark as he did before, "What reason have you to give why I should interfere?" If you say that a particular thing shall happen unless a man does a particular act, he very constantly will not do that act; whereas, if you say that unless he does a particular act the same thing shall not happen, in like manner he will refrain from doing the act. People will not act without you give them some particular reason for doing so in the particular case, although the consequence of their not acting is to bring about the precisely opposite result to that which their not acting six months ago would have done; that is to say, six months ago, if you had given no certificate a man would not have got speedy execution; the law now says, that unless you give a certificate he shall have speedy execution, and under the same state of circumstances you do not give it.

1307. From your experience, taking actions of tort generally, should you say that in an action in which a man recovers 20*l.* that amount would stamp the action as being what you would call a frivolous action?—No, I should not call it a frivolous action, nor do I

George Bramwell, Esq., Q.C.

23d May 1854.

think that that is the test. I stated at the commencement of my evidence, that I did not desire to enter into the principle of the jurisdiction of the County Courts; but they have a limited jurisdiction—why is there a limit? I imagine that it must be because there is another jurisdiction which is of a superior character, and which, if it were as cheap, would have superseded the necessity of the County Courts. The County Court jurisdiction is supposed to be an inferior one, where presumably the law will not be laid down with the same accuracy, and where the rights of parties will not be so correctly ascertained, as they are in the superior courts. I imagine that is taken for granted. Then why have they any jurisdiction at all? Upon this principle, that as half a loaf is better than no bread, so is the comparatively inferior apparatus of the County Courts preferable to no justice at all; and really when one considers the number of cases to which they are applicable, and for which there was previously no remedy, it is surprising that parties have endured their absence so long. The principle of the County Courts, I imagine, is this, that it is better that persons should have some tribunal applicable to small amounts, which will not bear an expensive investigation, than that they should have none at all, or a very expensive one, although that expensive one would work more accurately than the cheap one. I do not consider that the question is whether the action is a frivolous one or no. If a man owes me 5*s.* and does not pay me from motives of dishonesty on his part, I do not see anything frivolous in my asserting my right to it; and if there is no action except in the superior court, I should not consider it unreasonable to bring an action there for it. If a man gives me a blow without any provocation, there is nothing vexatious in my suing him for it. One object of sending cases to the County Courts certainly was to prevent frivolous and vexatious suits, but the principle on which they are sent there is that they are cases which really will not bear any expensive mode of settlement. No doubt one good result of sending them there, and of giving the County Courts exclusive jurisdiction and depriving parties of costs who sue in the superior courts, is that it has a tendency to prevent the bringing of actions in the superior courts for the mere sake of costs. But suppose a man has an assault committed upon him for which 2*l.* would be a reasonable compensation, his preferring his claim in the only court that is open to him is not a frivolous proceeding as it appears to me. Why I should send him to the County Court mainly would be, because his cause of action was such that it would not bear the expensive mode of settlement which the superior courts have provided for it.

1308. Taking one case with another, would you put a case in which 20*l.* was recovered in the class of frivolous cases?—If a man has had a beating which a jury valued at 20*l.*, or if he has had goods to the value of 20*l.* taken under a claim of right, one would be reluctant to say that his preferring his claim had anything frivolous in it; at the same time one cannot help thinking that such cases are of that minor character, that they would be much better adjudicated upon elsewhere; that is to say, better for the interests of all parties. When I use the expression "frivolous," I use it rather in this sense: we sometimes find that a man whose difficulties would have been settled by the intervention of a neighbour, or some arrangement of that description, has been stimulated to bring his case into the superior court in the certainty that it would result in a profit to somebody there.

1309. That somebody being neither the plaintiff nor the defendant?—Exactly.

1310. From your experience, would you say that actions where 20*l.* damages were recovered, taking one case with another, were actions that were brought for the purposes of costs; or that they were that class of actions that were brought for the purpose of recovering damages for a substantial injury?—I should look very suspiciously at an action of that sort. I would almost venture to answer the question by putting another, What class of professional men do you find engaged in them?

1311. Does it not strike you that although an action may not in its commencement be frivolous with reference to the feelings of the party at the moment, yet the continuation of it up to the time of trial may really make it so?—Yes, a man may have a perfectly good cause of action which he is well warranted in bringing into some court or other; it may be very reasonable that he should bring his action in the superior court. If he has got a case of that description, and the parties on both sides are respectable, we know very well that it never reaches there. Actions of that description are pretty sure to be settled by the integrity and good sense of the persons advising, but I am very much inclined to think that these small actions of tort that are fought out to the dregs, are brought because one at least of the parties has fallen into bad hands, and the concern is being worked for *his* profit, but not for the profit of either the plaintiff or the defendant.

1312. Then, in your opinion, there should be no difference in amount (in giving exclusive jurisdiction to the inferior courts) between actions of tort and actions of contract?—That is certainly my opinion from what I have seen, and from reasoning upon it.

1313. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.* should be deprived of costs. That is, whether in cases of contract the exclusive jurisdiction should be extended to 50*l.*?—I must answer that question in the negative; I think it would not be desirable to make this alteration, and the first reason that occurs to me is that with every desire to speak respectfully of the judges of the County Courts, it must be remembered that the gentlemen who at present fill those offices were appointed under peculiar circumstances. I believe there were not many what we may call independent selections, and I own that at present I have not a sufficient confidence in them to be desirous of extending their jurisdiction to that amount.

George Bramwe Esq., Q.C.

23d May 1854.

To quote the expression of one of them, it must be remembered that "the strength of the chain is that of the weakest link." That is a reason that, to a certain extent, would wear out as the opportunity of selection arose from time to time; and particularly I think there would be a great tendency for it to wear out, (if one may make a remark, not applicable to this particular inquiry, but to other matters,) if the present very bad and unreasonable practice of giving open certificates of qualification were abolished. I really know nothing more unreasonable and misleading than that practice. A gentleman comes to you and asks you to give him a certificate, because you are upon his circuit; if you refuse, it is supposed that you refuse because you have no confidence in him, and if you pretend that is not the reason, you are probably not believed. I think an alteration of that practice would diminish the mischief.

1314. Do you think that the jurisdiction ought not to be extended?—I think so, and my opinion is that it should not be extended even if the office of the County Court judge were filled throughout the country by gentlemen as competent as I have no doubt in the course of time they would be.

1315. You do not propose to interfere with the concurrent jurisdiction?—Certainly not.

1316. Would it influence your opinion to know that in the year 1851, which was the year after the jurisdiction had been extended from 20*l.* to 50*l.*, there were 13,000 plaints entered in the County Courts for cases between 20*l.* and 50*l.*, that about 8,000 of those cases were tried; that there were 30 appeals, and that in only eight cases was the judgment reversed?—My opinion would not be altered by those facts; if anything, it would rather confirm my opinion, because it shows to what extent the suitors have at present the power of suing in these courts; the question is, whether they should be precluded in effect from suing in the superior courts.

1317. You consider that it is not unfair to a defendant in an action for 50*l.*, that in the event of the plaintiff recovering, the defendant should be bound to pay the costs of the superior court; but that below that amount it would be unfair towards him, there being another tribunal capable of determining the question between the parties?—I do not consider it unfair, but the question points to a matter that I have often considered, and which I should like, as I have answered in that way, to mention. It seems to me that one of the great objects of the courts of law of any country is, not the determination of the particular question between the particular suitors. As far as the public is concerned, it is a very little matter whether A. has a particular estate or B. You might possibly find that the person entitled in point of law would be the right person to have it, but the great object of the courts of law of a country is to prevent litigation, by having a tribunal always ready to redress wrong, and by having a tribunal of such a character that its decisions will have an amount of certainty in them that will preclude uncertainty in the minds of those who would have recourse to them. I assume, that the reason why the superior courts are to continue to have any jurisdiction at all, as more expensive courts than the inferior courts, is because it is supposed there is a superiority in their decisions. What is it that we go to law about now? We do not find that the great principles of law are in dispute at all; there is never any difficulty about them, but the questions which come before the courts of law are the constructions of new Acts of Parliament, the construction of agreements where they have to find out what parties intended should be the rights of each in a case which it is evident neither of them contemplated; and other matters of that description. The result of that state of things is, that an immense amount of what would be litigation, if there was an uncertainty, does not take place. What an immense number of cases there are that are disposed of by respectable attornies long before they reach us! and of those that come to us, how many never ripen into an action, and of the actions that are brought, what quantities are stopped before they come to a contest in a court of law! If I am right in supposing that this is a desirable state of things, it may be hard upon particular individuals to be told an expensive tribunal has been established, and you are compelled to go to it for the benefit of the public at large. I have often thought that a considerable hardship upon individuals, yet what are you to do? It is desirable that the law should be kept certain; there can be no greater mischief than uncertainty of the law, every lawyer must feel that, and you cannot keep the law certain without having a comparatively elaborate procedure and mode of ascertaining and declaring that law; you cannot have that certainty without somebody paying for it, and that somebody must be the suitor; and in this, as in a great many other instances, the individual must suffer for the sake of the general convenience.

1318. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I should say not, and for this reason: if you were to give a general jurisdiction where title comes in question, it appears to me you would depart from what may be called the principle of the limited jurisdiction of the County Courts, because the forms of our proceeding are such that you never can set a value upon corporeal or incorporeal hereditaments; for instance, a man brings an action for a trespass to his close, his damages are five shillings; there the title comes in question; the land itself may be worth 10,000*l.*, or a right of way comes in question, or a right of common which may be worth 1,000*l.* If you were to say that you would limit it to cases where the right was of a particular value, I do not see how that is to be ascertained or adjudged in any way; for instance, if a plaintiff brings his action for trespass to his lands, would you have him surmise that the defendant justified

George Bramwell, Esq., Q.C.

23d May 1854.

under a right of way which was not above the value of 20*l.*? that would seem rather an inartificial mode of proceeding. Then would you have the defendant say, "I justify under a right of way?" The County Court judge would say, "What value do you put upon it?" Suppose he says a 100*l.*; then he would say, "I will see whether you are right, whether there is any ground for supposing it is of that value; if it is of the value of 20*l.* only, I will entertain the question," because the corpus of the dispute, in truth, is the existence of the right. That would be rather an odd sort of question for him to determine in the first instance, in order to see whether it did exist or not. It seems to me, therefore, that there would be a technical difficulty in saying that the jurisdiction should extend to cases of that sort.

1319. Are you aware that the County Court judges have that duty cast upon them in certain cases; for instance, there is a certain form of ejectment where the value of the property is under 50*l.* and the judge has the determining the value of the premises?—He has so, but what I was rather pointing at was this, keeping in view that the principle of the County Court jurisdiction is, that the subject matter of the litigation should be of a limited value; if you give them jurisdiction where title to a corporeal or incorporeal hereditament comes in question, you must either give it without limit, in which case you would depart from the principle, or you must give it with a limit, and then I have a difficulty in seeing how you are to ascertain that limit; for instance, suppose you were to say that they should have such a jurisdiction where the corporeal or incorporeal hereditament was of the value of 20*l.*, the form of our proceeding is such that a man never, except in ejectment, really claims a corporeal or incorporeal hereditament; as such, he does not sue for it in specie, but he complaims, for instance, that his right of way has been obstructed upon a particular occasion, and he claims, not the value of the hereditament, but five shillings damages. On the other hand, the man who denies the existence of the right, does not bring anything like an action to have the right disaffirmed, to have it determined that no such right exists; but he says, "You have trespassed on my close." Therefore, whether you suppose the asserter of the right to be the plaintiff, or whether you suppose the denier of the right to be the plaintiff, neither the one nor the other puts any value upon the supposed right (except in the case of ejectment, where he does). What I am surmising is this, suppose it is said that the County Court judge should have jurisdiction unless the value of the right should be above 20*l.*, we will say by analogy, that would never appear upon the proceedings; it must appear, therefore, upon the evidence. Then the County Court judge would be in this situation, that before he could ascertain whether he had jurisdiction, he would have to ascertain what the supposed value was.

1320. Does it occur to you that there would be a great deal of difference between ascertaining the value of a tenement where it is sought to recover the possession, which between landlord and tenant is let at a certain rent, and ascertaining the value of an incorporeal hereditament, which in its very nature, must be very uncertain, and very difficult to ascertain?—Yes, certainly, there is a great difference; and there is this further difference, that in the case of an ejectment, the thing corporeally exists, there it is—but in the case of an incorporeal hereditament, the question is, whether it exists or not.

1321. Take the case of a corporeal hereditament first?—I should say that you would either depart from the analogy by giving the jurisdiction where the corporeal hereditament was above 20*l.*, or, if you limited it to 20*l.*, there would really be very few cases which would come within it.

1322. Do you not consider that at present, the County Courts not having any jurisdiction, there are a considerable number of cases where the costs of the superior court are so heavy, that the parties are practically deprived of the power of trying their rights?—I certainly think it would be a desirable thing that if neither party objected to the jurisdiction upon the ground that the title to a corporeal or incorporeal hereditament came in question, the County Court should have jurisdiction.

1323. You are aware that the County Courts may now try by consent?—Yes, but I mean if they did not dissent.

1324. Are you aware that it is proposed in all cases, assuming power to be given to the County Courts to determine questions of titles, to give large powers of removal by certiorari to the judges as a matter of right?—I think there would be a difficulty in that. I think it very desirable that the County Court should have jurisdiction in cases where these rights come in question, unless either party object. If either party object, then I think it very reasonable upon principle, that that should be enough, and in that case, they should have no jurisdiction.

1325. Would your opinion of the difficulty of giving this jurisdiction alter your views upon the point?—It is an inconvenient thing that there should be no jurisdiction in such cases as have been suggested. It is an inconvenient thing also that the objection should be taken when the expenses of the trial have been incurred, that is to say, have been entered upon, that the defendant should then come and say, "I object to this trial proceeding, upon the ground that title comes in question," or that the plaintiff should do the same thing after expenses had been incurred. On the other side, I certainly think it an inconvenient thing that the right to a valuable easement or piece of land should be tried in the County Court. I think it is inconsistent with the general principle of the County Courts, and the difficulty is to arrange what course should be taken: if you say that in all cases the defendant may, as a right, remove the case by certiorari upon the surmise of

George Bramwell, Esq., Q.C.

23d May 1854.

there being a title in question, then it may happen that he did not know that any title would come in question, consequently he would have his right decided by a tribunal which, if he had known of it, he would have had a right to object to; probably that would not be a case of common occurrence. I think it very desirable that the jurisdiction should be given supposing that some means were found for having the question determined, where the right disputed was of a certain value, in the superior courts, as other questions of a certain value may, at the will of the parties, be determined in these courts. I do not think there is anything in the nature of the controversy which should exclude it from the County Courts; difficult questions no doubt arise when questions of title arise, but I do not think that the difficulty of a question is a reason for excluding it from a County Court, it is the amount of the litigation. Therefore, if you can give the jurisdiction to a certain amount, and give the parties the same right of having cases above that amount determined in the superior courts which they have in other cases, then I see no reason why the jurisdiction should not be given. Indeed, I think it would be desirable.

1326. Are you aware that in Ireland the assistant-barristers, who stand in the position of the County Court judges, have the power, at present, of trying questions of title?—I was not aware of that.

1327. Would you see any objection in the event of a question of title arising in the course of the inquiry at the County Court being allowed to proceed to find the facts, and to give its decision as seemed right to the judge, but subject to an appeal as a matter of right?—Assuming that the jurisdiction were given, I should like it given without qualification.

1328. Would you see any objection to giving the right to dispose of questions of title, keeping always in view the amount of the alleged grievance in question, subject to appeal?—I own I think it would be an unreasonable thing that any title to a right of way which, perhaps is worth 1,000*l.* should be determined in a court which was appointed for the determination of small cases. If an action is brought against me to recover five shillings, my right of way may come into question; suppose, for instance, it is brought to contest the right altogether, or for some alleged excess beyond that which the extent of the right warrants, I might find myself decided against by the judge upon the facts, then the law would follow as a matter of course, and my appeal would be worth nothing; and if that is an estoppel as between me and the other man, and for anything I know it may be, and whether it is an estoppel or not, or whether I sustain nothing more than the prejudice which inevitably does result from a man having a decision against him by any person, it certainly seems more reasonable that the court should be invested with such a jurisdiction.

1329. What should you say, supposing it was matter of express provision that the decision of the County Court should not be an estoppel between the parties in an action in the superior court?—Then, indeed, the objection would be removed, because that would be making it analagous to the procedure which at present exists, whereby if an order is made to turn a man out of possession that is to be considered an act of trespass by the landlord, which gives the tenant the right of sueing him; probably in a similar way the adjudication of the County Court might be treated as an infringement of the alleged right, which would at once give the party adjudicated against a right of action as a mode of appeal.

1330. You mean taking out the warrant without disturbing the possession?—Yes.

1331. Would not the result of that be rather to accumulate the costs upon a poor man than to relieve him from the costs, because the defeated party would be pretty sure to resort to the superior court, by way of appeal?—That I do not know. There is no doubt if there were but one case to be determined, and it was quite certain that that case would be ultimately taken into the superior court, it would be much better to take it there at once.

1332. You understand the present question to refer to questions of title?—So I understand it. It is a case presenting difficulty, but I think it is a pity the jurisdiction should not exist in some shape.

1333. The result of your opinion is that you think it should exist if it could practically be limited, but not otherwise?—Not otherwise. My first answer was that a title jurisdiction ought not to be given, and for the reason that there is no mode of ascertaining the amount of the subject matter of the dispute, because the claim in point of form is not for the right, but for the damage done by the exercise of it, or the alleged exercising of it, in the particular case. That difficulty appeared to me to be insuperable; but suggestions have been made by which that difficulty might be got over or mitigated, and the want of that jurisdiction is said to be mischievous.

1334. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation, under a will or settlement, is in dispute?—My impression is, that that ought to be no objection to their jurisdiction. I cannot see why they should not have jurisdiction to the same amount, where matters, such as this question refers to, are in dispute, as where any other matter is in dispute. I do not see the difference. A man makes a deed of grant of a chattel worth 15*l.*, and there the County Court has jurisdiction to determine the whole question, why should it not have jurisdiction if the same thing had been left by will?

1335. Suppose this question to be limited in amount, you see nothing in the subject

George Bramwell, Esq., Q.C.

23d May 1854.

matter of the inquiry to exclude the jurisdiction of the County Courts?—I think not.

1336. What is your opinion with respect to the transfer of the ecclesiastical jurisdiction in small amounts to the County Courts; do you see any objection to it, or is your opinion in favour of it?—As I have never considered that question, I should like to limit my answer somewhat in this way, that I have seen many instances—I suppose everybody else has—of where, on the death of persons in humble circumstances, no administration, of any sort or kind, has taken place, and things go on by the mutual forbearance of the parties interested, rather than according to the law in any way; and I presume that that is attributable to the fact, that the courts to which they would at present be obliged to have recourse, in order to have their legal rights ascertained, are too expensive for them to go to, and, consequently, upon the same principle which has caused the institution of the County Courts for other purposes, it is reasonable that they should act in this case also; but it is a question which I have never considered, and is one I think of some intricacy. I know the actual mischief which at present exists practically, in consequence of there being no jurisdiction.

1337. Is it desirable to repeal section 128 of 9 & 10 Victoria, chapter 25?—Answering the question as it is put to me, I certainly should think that any repeal of those provisions, which give the option of suing an officer of the court in a superior court, would be objectionable. With respect to the other part of the inquiry, it has often occurred to me that the present law is frequently very mischievous, and yet I should not like the unqualified repeal of it. Take, for instance, the case of a large wholesale house in London having small debts due to them in different parts of the country, and at a considerable distance, what is to be done? Are they to be running about to every County Court in the kingdom to enforce those claims, or are they to be privileged to bring debtors up to their own court in that case? What course would be pursued if that section was repealed?

1338. Is it desirable to repeal that part of it which relates to parties living at a distance from each other?—Answering that question in the shape in which it is put, I should answer it in the negative; at the same time, I have seen, I think, many objectionable cases, where the plaintiff has got his full costs, because he resided more than twenty miles from the defendant, and where he ought not to have got the full costs, because he ought not to have brought his action in the superior courts. But the reason why I say that this section ought not to be repealed is, because it appears to me that, in that case, a man would be bound to go to the court of the district in which the defendant lived, or to the court of the district in which the cause of action arose.

1339. That may be in his own district, by leave of the court?—Then there would be occasional entanglement, and sometimes there would be cases, where the cause of action did not arise where the plaintiff or his witnesses were living. One might take the case of a man going round with his commodities, which is sometimes, I suppose, done where they are of small bulk; and, in that case, the cause of action would arise where the delivery was. I think it rather hard, in that case, that he should have to run after his debtor when, in all probability, his witnesses to prove the case would be in London, and he himself would be in London.

1340. In the case of a commercial traveller going round and receiving orders from different persons in the country, he has his periodical visits, he would go to York—say every six or three months—it would not be necessary for the plaintiff to attend in person; it would only be necessary for the traveller to attend and to prove the debt at York: in that case, would there be any hardship?—Of course, he must then wait till his business took him there; but I rather meant to put that by way of illustration. I should say generally, that it would be rather hard that the creditor should be bound to follow the debtor, or to find out where the cause of action arose, and I do not see why he should not have as good a right to sue the debtor in the court within the district where he (the creditor) lives, as in his court; and although I should like to see some alteration made in the law which entitles a man to his full costs, where he sues in the superior courts, living twenty miles distance from his debtor, yet I should not like to see the alteration simply by the repeal of section 128, because it appears to me that that would, in many cases, be attended with unreasonable hardship upon the creditor.

1341. Do you think that the repeal should be coupled with some alteration?—Yes; if repealed at all.

1342. Can you suggest what alteration it would be desirable to introduce?—I should be inclined to say—speaking somewhat hastily on the matter—that the action should be brought wherever the place of abode or place of business of the creditor was.

1343. That is to say that the plaintiff should be *dominus litis*, and not the defendant?—Yes.

1344. You do not mean that in all cases the plaintiff should be *dominus litis*?—No; I would not say in all cases, because it is quite clear that some cases ought not to be tried where the man himself lives.

1345. In cases beyond twenty miles, the plaintiff should be the *dominus litis*?—There might be cases of grievous hardship. A man might sue me in Cornwall for a debt of 20*l.*, and I would rather pay him 50*l.* than go; I think that the present rule which exempts a man from the loss of costs, because he lives twenty miles from the defendant, is intrinsically

George Bramwell, Esq., Q.C.

23d May 1854.

objectionable. Whether you can get rid of that rule by anything which is not more objectionable may be a question; but I think if you get rid of section 128 simpliciter, you would introduce something which is more objectionable. If you say that the plaintiff shall sue in the court where his place of business is, that would be also objectionable. Whether the intermediate sort of thing—that is to say, that he should be at liberty to apply for leave to sue, and if that leave was refused, then that he should be at liberty to sue in the superior court—or, whether any other provision of a similar nature can be made, which would remedy the present mischief, without introducing a worse, is a matter upon which I do not feel myself qualified to offer any opinion.

1346. Where parties live more than twenty miles apart, do you consider that the plaintiff should or might be *dominus litis* by leave of the judge?—That is the inclination of my opinion, speaking somewhat hastily.

1347. Assuming that such an alteration was made in the law, do you consider that it would be expedient to repeal section 128?—I think I have said, that in my opinion the right to costs, where the sum recovered is under 20*l.*, but where the parties live more than twenty miles distance from each other, is frequently a very mischevious thing, therefore I should like to see some alteration of that, provided that you do not introduce something more objectionable; the question is a difficult one; the hardship which it is supposed would exist, may be said in truth to exist at present. As to the superior courts, persons living at a distance from each other must be brought together to settle their disputes; it is a hardship upon the plaintiff to have to go after the defendant, and for the defendant to go after the plaintiff, in whichever Court you bring your proceedings. The proposition is, that that joint and several hardship shall be removed by the proceedings being brought before the cheaper tribunal of the two. There are a few other considerations one should not lose sight of; first, a man might not choose to go after his debtor where he might fancy he was known, and he himself the plaintiff was not, where the defendant would have a character from the very fact of his having lived in the place for years. Again, there is a difference between the county courts and the superior courts, in this; a man in Cornwall owes me 15*l.*; I issue a writ in the superior court, and put the amount on the back of my writ, and he does not appear, and I get my debt. I have never left my counting-house; but if I issue it in the County Court, I must attend and prove my debt, or send some one who can prove it; that is a consideration which seems to me to bear upon this question, because you do not impose inevitably the same hardship on parties in the superior courts by bringing them together, that you do in the County Courts. We find, I think it is ninety-seven per cent. of all actions brought in the superior courts, are determined without the parties making any appearance in court at all; in the County Courts, if I understand, none of them can be determined in that way, unless the plaintiff will withdraw from the inquiry. If you suppose that the parties must come together in order to settle their dispute, or that one must come into court, it is a hardship in whatever court you try, whether it is a superior court or an inferior court, and it would be desirable to mitigate that hardship as much as possible, but inasmuch as it is not the case at present, in the superior courts and ninety-seven per cent. of actions brought, never involve the appearance of the parties in court or their witnesses, that is a reason why the superior courts should be resorted to in cases where the parties live twenty miles distant, in case they do not apply.

1348. Then if judgment by default be introduced into the practice of the County Courts, that objection would fall to the ground?—Yes, then there would be the remaining local objection, such as it is, namely, that if I have to go to sue a respectable man who lives in a small country town, I go a stranger to fight a man of character, I might say, "No let me have him in my own court, where I am known and he is not." I do not know that there is much in that, but though there may be nothing in reality in it, it is something that would influence plaintiffs a good deal I have no doubt; they would be very apt to think themselves ill used.

1349. Still as a general principle, ought not the trial to be held where it could be held at the least expense to the parties?—No doubt.

1350. Then the result of your evidence on that point is that you do not feel confident that this system ought to be repealed, as no plan which you are at present acquainted with in substitution of the present disposition of the Act of Parliament would be beneficial?—Quite so. I have noticed some mischievous consequences from this provision about parties living more than twenty miles from each other, but I cannot pretend to say that I see any remedy for the present state of things, which would not introduce something worse.

1351. After considering the question in all its bearings, what would be your answer to it?—Answering the question categorically, I say certainly not.

1352. What in your opinion is the cause of parties not having more generally availed themselves of the jurisdiction by consent, under section 17 of 13 & 14 Victoria, chapter 61?—As a fact, I cannot pretend to answer the question, but I believe that parties would more generally have availed themselves of this jurisdiction, provided that instead of a preliminary consent, it had been arranged that there should be no dissent, that is to say, if you had a provision that a plaint might issue in the County Court for an amount, the endorsement indicating to the defendant what the claim was, and that unless he gave notice of dissent within a certain time, the County Court should have jurisdiction, and

George Bramwell, Esq., Q.C.

23d May 1854

that if he did give notice of dissent then, that the case should be at once removed into a superior court, or should terminate in the court below. I believe that in that case parties would avail themselves much more frequently of this jurisdiction by consent. We find in our other practice, something analogous to what I am now saying. Take the common case: actions are continually brought into court, which when they get into the hands of dispassionate counsel, are immediately declared to be incapable of being tried, and are referred; for my own part, I have been very often ashamed to find myself in a case of that sort, because inevitably there has been some blame from want of temper or conduct on one side or the other; perfectly respectable persons on each side, but they have not been able to approach each other to consent, partly from the sort of hostility of feeling that there always is in the course of a case, so that the parties never meet to agree; and it is partly also attributable to a cause to which I adverted before, which is, that you must give a man a motive to do a thing. He will not give his consent actively, and in precisely the same circumstances when he would not give his dissent actively, and I believe therefore, that one of the reasons why this consent jurisdiction has not been more resorted to, has been because you have made an active consent necessary, instead of saying that a dissent should be required to oust it, and because you have required that it shall take place at the time when probably the parties blood is most up, instead of allowing it to take place when they might have got a little cool and the heat of dispute was over. I must say that I think it would be a very useful jurisdiction.

1353. Do you think that the want of a scale of costs of a remunerative character to the attorneys may have had an effect in producing the non-use of that jurisdiction?—It would be impossible to say that it had not had its influence, at the same time I desire in making that remark to say, that I really do believe, according to my observation, that a more respectable set of persons than those who are in that branch of the profession do not exist in any calling; and I am quite sure of this according to my observation, that the principal duty and business of an attorney consists in putting an end to suits, and although persons may make a great clamour about paying costs, yet anything that introduces an inferior set of men into the profession, not gentlemen of position and education, will be a very great mischief to the country. I think that of all persons in the world they ought to be treated as a most important body. I cannot conceive a greater pest to any country town than an unscrupulous attorney, who will set parties by the ears, and on the other hand I do not think that there can be a greater blessing than a man who will prevent persons from fighting out all their disputes small and great to the dregs, by keeping good fellowship in a place; according to my experience, that is really the character of the respectable members of the profession.

1354. From the mode of carrying into effect the jurisdiction proposed, ought not a proper scale of costs to be provided for the attorneys?—I certainly think so. I have no doubt about it; it seems to me impossible that persons can get on without legal advisers to fight their battles for them; I suppose that must be in the shape of an attorney or advocate, or both; then if they are to exist they ought to be paid, if they are paid, they ought to be paid according to the value of their services. The profession of an attorney is the only one where the amount of his remuneration is determined by an appointed officer, and it is reasonable that that should be the case with respect to attorneys, and that they should not be at liberty to claim to be paid as other people are, where the amount is settled by the verdict of a jury if parties cannot otherwise agree; but although there is that difference, yet the principle on which they ought to be paid is, that they should be paid an adequate sum. That the labourer is worthy of his hire, is as true of an attorney as it is of anybody else, and I repeat that it would be a most mischievous thing to introduce an inferior set of men, whose position and circumstances generally were such that you had not that guarantee for their good conduct that you have in the present class of attorneys.

1355. As to the expediency of establishing an adequate scale of costs, would you confine it to the cases in which jurisdiction is now given by consent, or would you extend it to all cases brought in the County Courts?—There is very considerable difficulty in that, in this way: I have said that I supposed that parties' legal battles must be fought by deputy, but I repeat a remark which I made before, that there probably are some disputes of such an amount and character that it would be almost reasonable to say that the parties to them should not be at liberty to do that which is calculated to ensure a correct decision, that is to say, to have legal assistance; but it would be better that they should run some greater chance of an incorrect decision by having nobody to help them, than that they should add to the expenses. If you wanted to determine a milk score with the greatest chance of success, in all probability you would go to the most eligible tribunal and get the most experienced advocate; but it seems to me that you had better run the risk of having it erroneously decided by an inferior tribunal, and without any assistance at all, or if any man will have assistance, let him pay for it himself. I think that there are some cases in which no costs of legal advice should be allowed.

1356. Are you aware that it is the case now in cases under 5*l.*?—I was not aware of the amount; that being so, whether the allowance should commence at 5*l.*, or whether it should be larger in cases of 50*l.*, or at what sum it should become higher, I do not undertake to give an opinion.

1357. Would you as a general proposition say, that where a layman cannot reasonably

be supposed to be capable of conducting his own suit, that there, he ought to be permitted to employ the assistance of an attorney or advocate, in order to further the justice of his cause?—I cannot answer that question otherwise than in the affirmative, whatever the amount may be; you may suppose the case of a bed-ridden defendant that cannot come to the court; he is certainly entitled to have somebody in his place, whether at his own cost is another question.

1358. Where the difficulties of the case are such that an ordinary layman, particularly such as would be likely to come into the County Courts, where the jurisdiction is limited to 20*l.*, cannot properly conduct his case, ought he to be permitted to have the assistance of an attorney at the expense of the opposite party?—There are cases undoubtedly of this description, and if one could ensure that the County Court Judge would in every case adjudicate on the propriety of the party having had legal assistance it probably would be reasonable to say that there should be no amount under which a person should not be entitled to the cost of employing it. For instance, a claim might be brought against an infirm old lady who cannot say a word for herself, and although the claim might involve only a sum of ten shillings, yet her character might be affected by the inquiry so as to justify her engaging professional assistance.

1359. Suppose the not very uncommon case of a man seeking to recover 5*l.* for the loss of a parcel which he has sent by a servant to a railway station; the mode of proving that case must of course be such as to enable the Judge to find that the parcel was sent to the railway station. That is a species of case in which an ordinary individual would not be able to get up his evidence in a proper form. Is that the sort of case in which you would think it reasonable that he might be permitted to have the assistance of an attorney?—I can imagine that such a case would be one in which the plaintiff would very reasonably, and without any object of oppression, employ an attorney, and if he turned out to be in the right, he ought not to be put to the expense of that employment; but the difficulty is to ensure that the County Court judge will supervise each particular case.

1360. Do you think it would be perfectly safe to entrust the County Court judge with that discretion?—I think it would be perfectly safe; but I doubt very much whether it would not take up too much of his time—it would involve a sort of second inquiry at least in his own mind after determining the case; he would have to determine whether it was of such a character that the party to it had reasonably employed a legal adviser.

1361. With a proper supervision on the part of the County Court judge you do not see any objection to the principle?—Not at all. I cannot see how there can be any. Take the simplest possible case, a claim brought against an unmarried female for the maintenance of an alleged illegitimate child; in truth the question will there arise whether it is her child or not. Would anybody blame her, or say she was wrong if she had an attorney and counsel to help her? and if it turns out that there is no ground for enforcing the claim upon her, and she gets a verdict, she is practically fined a large sum of money for employing somebody to defend her. I see no reason why she should not have her costs in that case, not by way of punishing the plaintiff, but by way of indemnifying herself. Considering each case by itself, I think however small the amount, if a party reasonably gets legal help and turns out to be right, the other side ought to pay him the cost. Whether injustice had not better be done in particular cases than a dangerous rule established, is another question.

1362. Have you ever considered how far the establishment of a scale of costs in the County Courts would tend to produce a class of attorneys attendant upon the County Courts as regular practitioners, with the assistance either of an occasional or perhaps a permanent bar?—I have never considered the question; it is obvious that the appointment of a remuneration to persons would have a tendency to attract them to the place where they are to be remunerated.

1363. Have you considered how far the establishment of that state of things would or would not tend to defeat the primary object of the establishment of these courts, namely for the easy recovery of small debts?—One cannot fail to see that it would have that tendency, because we have seen practices of a similar description, unless I am mistaken, in some criminal courts, and very likely if plaintiffs were to bring these cases into court, an attorney, who regularly practised there, would offer his assistance on the terms, that if he could get any costs allowed he would be paid, otherwise he would not; it would be a game at which he could not lose, and which he might win, and that would necessitate the employment of an attorney by the opposite party as well; that is a very possible state of things; and not only that, but the plaintiff would go into court and say, "Well, I have laid out my money in fees, I have got them at stake, and my 3*l.* or 4*l.*," or whatever else it is at stake, "it is but another pound or half guinea if I employ this gentleman to help me." Anything that tended to encourage the attendance of attorneys would have a tendency to encourage their employment no doubt, and I think that would be prejudicial for the reason that has been mentioned, and which I have adverted to already; these are to be the cheap courts, and cheapness is to be consulted at some presumable sacrifice of law or justice.

1364. In your opinion the primary object of the establishment of County Courts being the recovery of small debts, anything that would possibly lead to the establishment of a permanent corps of attorneys, or of a permanent bar, would be likely more or less to defeat that object?—Undoubtedly; on the other hand it is impossible to prohibit the

George Bramwell, Esq., Q.C.

23d May 1854.

representation of the parties sued, and it would be unreasonable in many cases that they should not have a compensation allowed them for the expense of procuring that representation.

1365. Taking into consideration the fact that half a million of cases are brought before these Courts in the course of a year, and that eighty per cent. of that number are cases under 5*l.*, in your opinion is it of very great importance that the recovery in those cases which form eighty per cent. on the whole number, should be as easy as possible, and that the establishment of this scale of costs would have very probably a tendency to interfere with the facility of recovering?—I think clearly that it is desirable that these questions should be determined at as little expense as possible, which remark, indeed, I make of all legal proceedings. I think all legal proceedings ought to be as cheap as they can be, bearing in mind certain general considerations; but I particularly think it is desirable with reference to these small debts. It has often occurred to me that a good many of the jurisdictions which have been given to the County Courts, and which are proposed to be given to them, might be very desirable things, and I believe are very desirable for local tribunals. I have often had some doubt whether it would not have been better that the jurisdiction of the small debts court should not, as it were, be kept distinct from all those other jurisdictions; but it has occurred to me that there would be very great difficulty in so doing, and very great expense also; and consequently, that although I agree with the remark contained in the question put to me, namely, that a scale of costs for large cases, attracts persons, and they consequently get employed in small cases in addition to the expense, and that that is a mischief, still I think, that viewing the question as a whole, it is a risk that must be run, and one must trust for its correction to the fact that those persons who imagine that they will find profit in being concerned in the advocating or litigating of small affairs will ultimately find that they do not make any profit of it at all. I should think that they would not get employed in small matters to any great extent; but admitting that they did, and that that would be a mischief, still it would be mischief the risk of which must be run for the sake of the general benefit.

1366. Where would you draw the line as to where the scale of costs should be allowed?—That is an exceedingly difficult question. It is quite clear, now, an action might be brought for a shilling, when you would say that the defendant was well warranted in having the best legal assistance, and where the defendant ought not ultimately to bear the expense of it; and upon principle one would be inclined to say that there ought to be no limit at all downwards. But, on the other hand, it is most desirable that persons should not augment the costs of these really small matters that come before the County Courts—that would induce you to put a limit somewhere. I doubt very much whether 5*l.* would be low enough. Suppose you had no limit at all, you might in all cases make the giving of costs discretionary with the judge; and what I should be inclined to do would be, to say that up to a certain amount no costs should be allowed unless the judge ordered them, and above that amount that they should be obtained as a matter of course.

1367. Unless the judge deprived them?—Yes; to make an active giving necessary up to a certain amount, and after that to make an active taking away necessary. To say where the line should be drawn is very difficult: I should be almost inclined to say that 20*l.* would be a very good sum, under which a man should not have costs unless the judge ordered it, and above that, that he should have them as a matter of course, unless he was deprived of them.

1368. If it was an honest case of litigation under 5*l.*, you are of opinion that it should be competent to the judge to give them costs?—Certainly.

1369. What would you say as to the personal expenses of the plaintiff himself, if he comes from a distance to prove his case before the court?—I certainly think he ought to be allowed all his own personal expenses. The principle of costs is this:—two men dispute; one turns out to be wrong in point of law; his wrong has put the other party to a certain amount of expense; he ought to indemnify him, not as a punishment to the man who is in the wrong, but as an indemnification to the man who is in the right.

1370. In your judgment, would it be expedient or not, that the County Courts should have jurisdiction to determine disputes to any extent, if neither of the parties object to such jurisdiction?—I think so, certainly.

1371. Do you consider that it would afford ample opportunity to the defendant of objecting to the jurisdiction, supposing that the summons, where the demand exceeded 50*l.*, were personally served, and contained a distinct notice to the defendant that he had a right to object to the jurisdiction of the County Court, and to have the case tried in such one of the superior courts as he thought fit to name, upon giving notice to the clerk of the County Court a certain number of days before the trial?—I think that would be sufficient. I do not think anybody could be misled by that.

1372. And you think that it would be preferable to the present mode adopted by the Legislature, in section 17, of making both parties consent before the trial?—The present mode assumes that the persons who are quarrelling will agree, which does not happen very often. I appeal again to the cases that ought to be referred, and never have been referred; when you ask the persons on one side, your attorney for instance, the reply is, "Oh, they demand the most unreasonable terms;" or if you speak to the counsel on the other side, he says, "Well, I am told that there has been no bringing your client to any

kind of agreement, he wants everything that is unreasonable;" and for some cause or another they cannot be got to agree.

1373. You mentioned in the earlier part of your evidence, that you thought that assent by not doing anything should be a reasonable proof of consent for the purpose of doing such things as are alluded to in section 17?—I think so.

1374. Would an endorsed process and notice to the defendant, in sums above 50*l.*, be sufficient evidence, if no notice was taken of this endorsement on the process, that he did assent?—It occurred to me as it was read to me, that the form of the notice rather challenged a dissent, but I did not make that remark upon it, because it might be considered fair that that dissent should be challenged, that a man should have notice given to him that he had a right to make that objection, in the same way as the notice upon the writs in the superior courts would intimate to a man that if he does not appear judgment will be signed against him. It might be said that that was just as good as inviting a man to defend the action.

1375. If on receiving that notice he did nothing, would that be sufficient evidence of assent?—I think it would be quite enough.

1376. But you would think it proper to give the notice?—I think it not unreasonable that the notice should be given in cases above 50*l.* I do not think that it is absolutely essential; I think every man ought to look out for himself.

1377. You would not make it imperative, then?—I think it is fair; it is apprising a man of his rights, and therefore it is fair; but it might be well, on the other hand, when he got the notice, if he did not take it, that he should go to some adviser to apprise him what to do.

1378. In your judgment, looking at the functions to be performed by the County Courts, and the general duties that are expected from them, should you think it advisable that encouragement should be given to transfer cases of an important character to the County Courts?—I think I have said before that it has often crossed my mind, as a doubt, whether it would not have been a good thing to have had a local court whose jurisdiction should be limited to 5*l.*, and whether you should not have possibly had another set of local courts of a higher jurisdiction, and the other jurisdictions to be added, such as the insolvency jurisdiction, for the sake of keeping a true small debts court; but of course that would have involved a great deal of additional expense, and a variety of other inconveniences which it is not necessary to refer to; and although I feel that it is not desirable that the jurisdiction of the County Courts should be operated upon, if I may use the expression, in such a way as to prevent them from being strictly a small debts court, yet it is but reasonable that parties, if they choose, should have the option of trying their disputes in a court of that description. I think it would be exceedingly desirable that, do what you may with County Courts, you should always take care that small debt cases are chiefly decided there; that is to say, if the County Courts have great additional business attracted to them by some alteration in these provisions, I think some provision ought to be made whereby in such Court the litigants of really small cases,—of a few shillings, or 2*l.* or 3*l.*, and cases of that sort,—should not be kept waiting whilst these greater matters are despatched; that they should be got rid of first; in short, that if necessary, you should do this,—have one day or one time on which trifling cases of a few shillings or a few pounds are decided, and let the same tribunal, on another day, determine those matters which would be more elaborately fought, and which would take more time in their discussion. Of course, it would happen that the extended jurisdiction would possibly a little interfere, but I think not much. By way of illustration, suppose there was a County Court at a particular place, and that the judge sits there one day for the trial of small cases, if necessary; if he cannot get through all, he must adjourn them to the next day; but if he can sit next day for the trial of more important cases, insolvency cases, and cases that come under this extended jurisdiction, how does the fact of his sitting on a second day to try those cases make his proceedings on the first day more expensive?

1379. Is it your opinion that the introduction of more important cases into the County Courts should be made subservient to the rapid dispatch of small cases?—Certainly; my notion of the value of the County Court jurisdiction is, that it is a small debts court, and I think that whatever you add to the jurisdiction ought to be subservient to that, its main object; and I think, particularly where there is this sort of jurisdiction by consent, parties who avail themselves of it cannot complain that their cases are postponed till the primary business of the court is settled, because it is their own choice that they are there. I certainly would have a court for the poor, they should have their court; that I think should be the primary object of the County Courts.

1380. Have you reason to suppose that any practical injustice has been done by that clause in the Common Law Procedure Act which has facilitated judgment by default?—According to my experience none, nor do I believe from anything that I have heard that any injustice has been done; but I did hear from a learned judge, for whose opinion I have the very greatest respect, that it happened that persons found themselves undefended in some cases; but then upon inquiry pursuing the subject with him, it appeared to me not to be the result of the provisions in the Common Law Procedure Act, but it appeared that it existed just as much before as it has since, for he attributed it to this: a man has a writ served on him—what is he to do? he goes to an attorney to defend him—the attorney

George Bramwell, Esq., Q.C.

23d May 1854.

does not like the client—the client cannot pay, and therefore he will not undertake to appear for him, or to do anything for him. That, of course, was as true under the old system as it is now, and the only difference is that a man who can get nobody to defend him at all, is now condemned, that is to say, has judgment against him, at a less expense than he had before. I do not think, therefore, that the remark of the learned judge to which I refer went to the effect that any harm had resulted from the provision in the Common Law Procedure Act, but he rather suggested that it would be a reasonalbe thing that a man served with a writ should have an opportunity of entering an appearance in the County Court, to which he personally can go without the help of an attorney.

1381. When he got there, what would he do?—He would appear.

1382. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient where the declaration required by section 121 of 9 & 10 Victoria, chapter 95, has not been made?—I cannot say that it has; I am not aware of any case in which a declaration could have been made, and has not been made.

1383. Is this a question you are disposed to answer?—I should give no answer to it, if it were not that it involved the assertion of a fact, the truth of which I am not cognizant of; that is to say, where the declaration has not been made. I am not aware that there were any cases in which the parties could have made that declaration and have not made it.

1384. Has any inconvenience arisen from the present practice in interpleader, where goods are taken in execution?—I am aware of none.

1385. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—No, I have not.

1386. Is the jurisdiction to give possession of small tenements under section 122 of 9 & 10 Victoria, chapter 95, found to be convenient?—I believe so; but there is, undoubtedly one objection to it in my judgment, which I will point out to the Commissioners: the Courts of Exchequer and Queen's Bench have both held, that the place where the rent does not exceed 50*l.*, although the value may be vastly greater; for instance, supposing a building lease, with a ground rent of 50*l.* a year, upon which twenty houses have been built, which are worth 50*l.* a year each. The Court of Exchequer and the Queen's Bench have held that they are cases within this section 122; whether any inconvenience has resulted from that would be one question, but that it was intended by the Legislature one cannot suppose for a moment.

1387. Would it be convenient to extend that jurisdiction to tenements of greater value, where the relation of landlord and tenant exists?—I can give no opinion upon that.

1388. Would it be convenient that that jurisdiction should be extended to cases of forfeiture where the annual rent does not exceed 50*l.*?—Assuming that there is, as one must suppose, that there would be a litigated question as to whether there was or was not a forfeiture, it seems to me that it would be contrary to analogy that the County Courts should have a jurisdiction, and I may add, as the question is put, this result would follow that if there was a lease to A. at 50*l.*, and houses were built and sub-let at 1,000*l.* to B, the sub-lessee might find his interest adjudicated upon by the County Court because there was an alleged forfeiture of A.'s lease.

1389. Is it desirable to repeal so much of the proviso contained in section 11 of 13 & 14 Victoria, chapter 61, as excepts judgments by default from the operation of the enacting part of the clause?—My impression is that it would be desirable to repeal it, because I have seen instances where parties have defended an action for no other object than to punish the plaintiff by depriving him of his costs, which evidently is a mischievous state of things for both plaintiff and defendant; but I desire to add that I never yet understood what the reason of the exception of judgment by default was.

1390. Would it be desirable that the County Courts should have an equitable jurisdiction to a limited amount?—I most assuredly think so. I cannot see any reason why it should not have an equitable jurisdiction as well as a common law one.

1391. Then in your opinion you think that there is no objection?—I think it would be desirable not only for the sake of those who are interested in the questions that would come before them, but by way of setting a good example of the fusion of the two jurisdictions.

1392. Would it be desirable to give jurisdiction in bankruptcy to the County Courts?—I think it would, for this reason; of course if you have got a competent tribunal, the nearer you can bring it to the parties whose interests are to be affected the better, and inasmuch as there are a great many County Courts in England, it is obvious that the bankruptcy business in the immediate neighbourhood of each could be more conveniently disposed of there than it could by a Bankruptcy Court at a great distance; because although there are several Bankruptcy Courts in different parts of the country, persons have to go very great distances, probably in some cases a hundred miles, before they can get to the court where their occasions take them, and therefore one certainly would say, that inasmuch as the gentlemen who preside in the County Courts have very nearly the same qualifications as those gentlemen who preside in the Bankruptcy Courts, there is no reason why the persons who have bankruptcy business should not have that sort of local advantage; but this difficulty occurred to me, What would you do for an official assignee? which would rather become a question for other persons to consider, when the presence of an official assignee is necessary at the Court of Bankruptcy.

1393. Might not the clerk of the County Court act as official assignee?—Supposing that

there was no difficulty of that sort, I should say that it would be desirable to give them the jurisdiction.

1394. There is nothing in your opinion in the sort of investigation that takes place, the proving of debts and looking into accounts, that would at all prevent the County Courts from assuming that jurisdiction?—I certainly see an objection, that did not occur to me. I defer to the opinion of anybody who feels that he could practically speak upon the matter, which I cannot pretend to do. I should have thought arguing *à priori* that that difficulty did not exist.

1395. Would it be desirable to give jurisdiction to the County Courts in criminal matters now disposed of at Quarter Sessions?—If I understand that question, it comes to this: would it be desirable that the criminal business now disposed of at the Quarter Sessions should be disposed of before the judge of the County Court? In other words, would it be desirable that you should have a lawyer to preside at the decision of those cases. Upon that, I entertain no doubt; I thin kit would be desirable; but speaking upon a matter of which I know but little, I should be sorry to see what one may call the sessional jurisdiction of the magistrates in criminal matters entirely taken away; therefore, I would much rather give the judge of the County Court the chairmanship of the Quarter Sessions, than I would transfer the business entirely from the Quarter Sessions to the County Court.

1396. When you speak of the chairmanship of the Quarter Sessions, do you confine it to the chairmanship in criminal matters or not?—Of course I do not answer the question in a larger sense than it is put; I confine it to criminal matters, but I should have thought that it would have been a good thing if he were to be chairman in all matters.

1397. Do you think that it would be undesirable to transfer such business from the Quarter Sessions to the County Courts?—I should not like to see the criminal jurisdiction of the Quarter Sessions put an end to, because I think that the benefit to be derived from the trial of the cases before the judge of the County Court, who would be a lawyer, might be obtained without the extreme measure of putting an end to the criminal jurisdiction of the court of Quarter Sessions, by making the County Court judge a chairman of Quarter Sessions in criminal matters; but I rather hesitate in answering that question, because it is a matter that I had never considered till I had this question put to me. The County Court sits once a month; of course there might be a criminal session every time the court sits; it would be most desirable, not only as regards the persons who are improperly imprisoned, but also with reference to the saving of expense, and it would avoid this curious state of things which exists now, where a man is committed to prison, and remains in prison two or three months, and is then sentenced with reference to his past imprisonment; the sentence in such case seems unreasonable to persons who do not know the extent of his previous imprisonment. I think it would be a very desirable thing, as you have got an officer who is competent for the trial of matters which are disposed of at the Quarter Sessions, that he should be used for that purpose. But I should not like for certain reasons, which probably would occur to everybody, that we should get rid of that tribunal which causes country gentlemen to take a share in the administration of justice in the country; and, therefore, I should prefer instead of abolishing the jurisdiction of the Court of Quarter Session in criminal matters, which I understand to be the case put by this question, I should prefer continuing the Quarter Sessions with the perpetual chairmanship of the judge of the County Court in criminal matters. Certainly, if this question supposed that there should be a concurrent jurisdiction of the two, I should think it would be rather objectionable: I think it would be better that the whole criminal business should be disposed of before one tribunal.

1398. Supposing it to be consistent with the other duties which the County Court judges have now to perform?—I intended it so. These three questions assume a very large addition to the business of the County Court judge, and if that large addition is made I think the primary object of the County Court never should be lost sight of, and you should never peril their efficiency as tribunals for the decision of small debts by the addition of other duties which they could efficiently perform, or could not efficiently perform, except at the expense of prejudicing their small debts jurisdiction.

1399. Might not that difficulty be obviated by increasing the number of judges?—Of course it might be. If you had a sufficient number of judges you might arrange that there should be one day exclusively for small debts, and the rest of the business entrusted to the County Court should be taken on another day. I wish to say that the suggested additions to the duties of the County Court judge should, in my judgment, not be made at present—I mean as to bankruptcy and criminal business.

1400. Would it be desirable to transfer to the County Courts the duty of revising the lists of voters?—I should think not; I should think that it would be a pity to impose any duty upon them that could be considered of a political character.

1401. If you were to increase the number of judges, supposing these several jurisdictions were given to them, would you attribute those matters to one set of the County Court judges, and other matters to another set of the County Court judges, so as to attribute the different classes of jurisdiction to different sets of judges?—I should have thought not; I should have thought it better that the same judge should have been the judge in all those matters. I think that, in considering any proposed additions to the jurisdiction of the judges of the County Courts, regard should always be had to their primary object, the

George Bramwell, Esq., Q.C.

23d May 1854.

decision of the cases of small debts, and that that jurisdiction should never be impaired in efficiency by the exercise of any other jurisdiction conferred upon them.

1402. Of course you consider the present extent of their jurisdiction up to 50*l.* as being a jurisdiction in respect of small debts?—No, I really do not; I must own, although I have not the least objection to the jurisdiction up to 50*l.* on the terms upon which it is, I think that that is an amount beyond that which is in my mind a small debt.

1403. Do you consider their having had that jurisdiction to the extent of 50*l.* has been beneficial to the public?—I am inclined to think it has, considering that the option is still given of sueing in the superior Courts above 20*l.*

1404. You are aware that they have jurisdiction up to 100*l.* under the Customs Duties Act?—I think I was aware of that fact before.

1405-9. Are you aware that they have jurisdiction under the Succession Duties Bill?—That I was not aware of.

Adjourned till Friday, May 26th.

Friday, 26th May 1854.

JOHN HERBERT KOE, Esq., Q.C., in the Chair.

Graham Willmore, Esq., Q.C., examined.

Graham Willmore, Esq., Q.C.

26th May 1854.

1410. You are a judge of a district of County Courts?—I am.

1411. Have you been so since the courts were first established?—No; the place was offered to me by the Lord Chancellor, about this time last year.

1412. Would it be convenient that a plaintiff, suing in a superior court in an action of tort and recovering less than 20*l.* should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior courts?—I certainly think so; I am not able to establish any rational ground for a distinction between the cases of tort and contract; if there is any distinction, I should say, that in ordinary cases of tort, the facts are simpler than they are in ordinary cases of contract; and I cannot see at all, why a man who is entitled to recover an amount of money in consequence of some injury done to him, should be excluded from the benefit to which he would be entitled, on the ground of the breach of a contract. The system of pleading, which prevailed in the superior courts, has sometimes produced very absurd consequences in cases of simple torts. I was once counsel for a defendant in an action of assault, tried at Lincoln, where a learned pleader was the junior on the other side. My client was the captain of a steamer, and pleaded in justification, that he had removed the plaintiff and *certain other persons unknown* from the vessel, because they misbehaved themselves, using no more violence than was necessary. The learned pleader took a number of objections, amounting I believe to seventeen. One was, that we had stated the other persons to be *unknown*, whereas it appeared at the trial that they were *known*, and upon that ground the learned judge desired the jury to find a verdict for the defendant. We had leave to move, and subsequently the case was argued in the Queen's Bench. The court, after taking time to consider, ultimately gave us judgment. Now, that is a case that would have been disposed of, on the merits, in the County Court, at perhaps less than one-hundredth part of the expense in time and money which it actually cost. I only give it as an instance, I might furnish very many. The defendant himself moreover, I believe to this day has not the least idea upon what ground the matter was decided. The facts upon the merits were all distinctly proved; the plaintiff was drunken, riotous, and misbehaving in every way.

1413. Upon the whole, then, you are of opinion that it would be convenient that a plaintiff suing in a superior court, in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certified that the case was fit to be tried in a superior court?—I certainly think so; I think if there were any distinction to be made, it would rather go to exclude cases of contract than cases of tort; the latter seem to me much the simpler of the two. Besides all which, I am quite sure that actions of extortion and vexation, actions purely for the sake of costs, "no cure, no pay," are much more frequently brought in cases of tort than of contract.

1414. In your experience, the questions which arise in cases of contract are more difficult than those which arise in cases of tort?—I should say so. Questions of tort frequently arise upon matters of eyesight only; the inquiry is often short. In the other cases, you often have to consider what is the import of certain words which have been used. Where there is not a written agreement, you have parties on both sides giving different accounts of the words. In the simple case of hiring a servant, all the persons in a family sometimes come, giving different accounts of the words used. I have there first to ascertain what the words are, and then what legal construction is to be put upon them. Again, in cases of warranty of horses, cows, sheep, pigs, hay, all of very frequent occurrence in my county, the same observations apply in regard to the proof of the warranty. And then there is a question behind, as to the breach of it, in respect of which there is generally

Graham Willmore, Esq., Q.C.

26th May 1854

conflicting evidence. So in questions of liability, where the inquiry is as to whom the credit was given. In such cases, there is a great deal more intricacy of fact and greater difficulty in determining afterwards what is the law.

I may now say, that with regard to all the questions submitted to me, I took the pains to inquire in every direction, among parties both professional and lay, in order that I might ascertain what was the general feeling upon the subject, and I give no evidence which is not in accordance with the answers I received, as well as with my own judgment.

1415. Would it, in your opinion, be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—I do not see the ground for raising the distinction between questions of 20*l.* and 50*l.*, either in tort or contract.

1416. Generally speaking, do you see any reason why the County Courts, having jurisdiction in matters of contract up to 50*l.* should not also have jurisdiction in cases of tort up to that amount?—I cannot suggest any. Suppose a gentleman's carriage is run against, the damages may be 50*l.*; in the case of a costermonger's donkey-cart, they may be fifty pence; the facts being identically the same. I think it is the general desire that the jurisdiction should be given.

1417. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—I should say, in the first instance, yes. I would not exclude the jurisdiction of the County Courts. I find, in my experience, that objections to the jurisdiction are constantly set up as a mere pretence; I do not hold myself at all bound by a man's simply stating that title comes in question; I feel that I must have my mind satisfied that it is so in fact; and therefore, an inquiry takes place, which almost amounts to the same inquiry, as would be necessary if I had to determine the question of right. If the County Court had jurisdiction, the fictitious cases, of course, would not be set up. I believe also that in a large majority of the real cases, the mere ventilation of them in the course of inquiry, would satisfy both parties as to where the truth lay. Still, I would not by any means make the decision of the County Court judge final; I would leave a discretion with him; he should not be excluded by want of jurisdiction; the case should be gone through with; then, after it had been gone through with, if either of the parties were dissatisfied with his decision, I think it should be left to his discretion, to allow the case to be removed to the superior tribunal.

1418. Not by appeal?—Not by appeal; I would allow it to be removed. I make that distinction, because in the case of appeal, you are tied up to the state of things as it then stands. I would have the case wholly removed, if the county judge should think it desirable, for the purposes of justice.

1419. If the judge, upon the application of the parties, thought it right to be removed, you would remove it?—Yes.

1420. Would you do that upon the suggestion of both parties, or should the suggestion of one be sufficient?—The suggestion of either party should be sufficient to enable the judge to remove it.

1421. Does it occur to you that any mode could be adopted for the purpose of limiting the amount or value of the property, in which the court should have jurisdiction in such cases as those?—No; I do not see how it could be done; the amount at issue in the suit might afford no criterion whatever as to the real importance of the question involved. I think all mischief would be avoided by giving power to remove the case; of course, I assume, that you have a judge competent to the discharge of his duties. My observations do not apply on the supposition that he is not.

1422. Would you impose upon either party an obligation, such as that of giving security for costs, if the case were removed?—I think so; and I would also limit a time within which a removal should be effectively proceeded with.

1423. Supposing a case were removed, what means would there be of making the party removing take proceedings, so as to go on with it?—That would involve an inquiry into details, to which I have not applied my mind. I have never tried to devise a machinery. I do not think I should feel a difficulty in doing so; the judge must give a judgment, or you cannot ascertain whether the parties are satisfied or not.

1424. Supposing that a party came before you, with reasonable evidence to satisfy you that there was a question of title, and asked you to remove the case, would you not rather remove it before giving judgment?—Certainly not; I think that very often the discussion and decision would satisfy both the parties that the right did not exist; I believe that many parties are quite persuaded in their own minds of the existence of a right, which is altogether a delusion, and which an attempt to support by evidence would at once destroy. I believe practically the result would be very advantageous, if the case went on to a decision; because, in many instances, I have no doubt, a man would be convinced against himself.

1425. Would you give the judge of a County Court power to say, "This is a question so difficult and complicated, or so important, that I think it is proper to remove it?"—I propose to give the County Court judge jurisdiction to go on with the matter until it comes to a decision; because there are a great number of purely fictitious cases, where a party sets up a title which he knows does not exist. There are also illusory cases, where the party is himself deceived or mistaken. I think that even in *bonâ fide* cases, the

Graham Willmore, Esq., Q.C.

26th May 1854.

parties would very often be satisfied with the discussion and decision of the matter; I would, therefore, let it go on to the end.

1426. You would let it go on to actual judgment?—Yes; and then if either party were dissatisfied with the judgment of the court, I would vest a power in the judge to say, "This shall be removed."

1427. That would be, in point of fact, an appeal?—I do not use the word "appeal," because it may be said that an appeal is tied up to the state of things as they actually appeared in the court. I would let it go all open to the superior court.

1428. Then you would have the case in the County Court gone through with perfectly?—Yes.

1429. And you would have a removal of it, before final judgment?—Before execution.

1430. You are aware that questions of title seldom arise in an action brought simply upon the title; the action is generally brought for a trespass; the defendant, by way of plea, sets up a right of way; the trespass is a matter perhaps upon which the plaintiff claims 5*l.* or 5*s.*; the determination of a superior court as to that would be an estoppel of the right of way; in your opinion, would it be advisable that the decision of the County Court judge should be final as to the particular trespass, but not final as to the right of way?—I think that might be a more convenient and simple mode of accomplishing my purpose, because it would leave the case more completely open, and parties could afterwards commence any proceedings which might be advised.

1431. Would it not have this advantage, that the question would be investigated fully by a court, the decision of which, in nine cases out of ten, would be satisfactory to the suitors, and which would place before them their real rights?—I quite think so; indeed I should give a larger proportion. In my own district I have never had any indication of a wish to remove a decided case, or to appeal, or to withdraw it from my decision in any way.

1432. Would there be any objection to superadd to that suggestion the power of appeal, if the parties chose?—I think the other plan would accomplish the object, and more simply.

1433. Would you think it right to limit the time within which an action should be brought in the superior court?—No, I should not.

1434. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?—In a large proportion of these cases, where the matters are small in amount, they now exist without any means of decision at all; the expense attendant upon the inquiry prohibits their being brought into court. I certainly think that parties should not be without some access to the administration of what is the law of the country.

1435. Do such questions frequently arise in the County Court?—At present they cannot enter there; but from what I have heard, in many of these cases great iniquity is perpetrated with impunity; a man gets money into his hands under a will, and never accounts at all.

1436. Is it desirable to repeal section 128 of 9th & 10th Victoria, chapter 95; that is, first, as to the distance of twenty miles; next as to the cause of action arising in the district; and thirdly as to the officers suing in their own court?—As to the twenty miles distance, I should say, yes. As to that portion of the section which refers to the cause of the action, I also answer in the affirmative. As to the third, relating to the officers, assuming that a power exists for the officers suing or being sued in the adjoining court, I should give the same answer to that also.

1437. In the event of repealing the clause as to the parties living twenty miles apart, where would you wish the plaintiff to sue?—Where the debt is contracted.

1438. Supposing the plaintiff to live neither in the defendant's district nor in the district in which the cause of action arises, would you permit him in that case to apply to the judge of his own district for permission to bring his action in his own district, where the parties live more than twenty miles apart?—I think it might be expedient that the judge should have the power of granting such permission upon application.

1439. Do you think it would meet this class of cases: namely, where there is a wholesale dealer in London, who sends travellers round the country, to receive orders in different country towns, for small amounts?—I do not think that there is much practical inconvenience in such cases at present. I have never heard any complaint, though in the West of England I have a great number of wandering travellers, especially in matters of grocery, drapery, and haberdashery. Their masters generally send the same traveller to obtain orders, collect debts, or prove them in case of an action being necessary, and the same journey serves for all purposes.

1440. In the class of cases where the defendant lives out of the district in which the plaintiff resides, and out of the district in which the cause of action arose, should not the circumstance of a convenient place of trying the matter be an ingredient in determining what the place should be?—I think it should be almost the sole ingredient.

1441. Would you think it desirable to give some power to have the case tried in the place which is most convenient for trial, irrespective either of the residence of the parties or the place where the cause of action arose?—I quite assent to that being the governing motive, but there is a difficulty, because the application is ex parte; a man desires to go to the place most convenient for himself, and he would give very good reasons to show that it would be the proper place, so far as he was uncontradicted; but there would be a

Graham Willmore, Esq., Q.C.

26th May 1854.

difficulty, from the fact of deciding without hearing the other side; and if the other side did attend, it would almost amount to a double trial.

1442. Do you think that, practically, the inconvenience would be a good deal removed by making it a rule that the plaintiff should found his application to sue upon an affidavit, to be filed with a view to prevent him from making any statement contrary to the truth?—I think it would operate as a check to a great extent; it would mitigate, but not remove the difficulty. It is possible it may be convenient to try a case in some place other than the residence of either party, and if you can do so without a complicated machinery, I think it would be expedient to give a power to the court of fixing that place.

1443. Do you consider that the general rule that the defendant should be the Dominus litis has acted well?—I have heard no complaints about it.

1444. Therefore you are not prepared to suggest any alteration?—No, I am not; nothing has ever been brought to my notice to show that any practical inconvenience has arisen from it.

1445. What, in your opinion, is the cause of parties not having more generally availed themselves of the jurisdiction by consent, under section 17 of 13 & 14 Vict. c. 61?—I think there are many causes. In the first place, ignorance is a cause. People do not generally know that it can be done. I also think that the present scale of costs is a reason. Attornies do not do it because of the different character of the costs which they recover. Another reason is, that in many cases, the defendant will not give the consent; his object is generally obstruction; he will not at all facilitate the disposal of the matter. In a large majority of cases, the defendant is in a comfortable position, and does not want that position altered; he will not do anything that may have the effect of facilitating a trial. I think that what I have said applies to a large majority of cases. I think also, in cases of importance, that attornies would hesitate to recommend the adoption of this course, because it would be recommending a thing out of the common way of proceeding; they feel that if any untoward event occurs, they will be held responsible, and they do not like to take that responsibility upon them. I also think that the insufficiency of advocates may operate. I have had several of these cases tried before me. I gave a man a verdict, on one occasion, nearly as high as 500*l*. With regard to these cases, I think it is inconvenient to enlist in a judge, what is generally considered the bent of human nature against his duty. If he does his work ill, he is not likely to be much troubled with cases under this clause. On the contrary, the better judge he is, the more likely he is to be overwhelmed with additional labour in long, intricate, and important cases.

1446. Is the want of a due scale of costs to attornies one of the reasons?—I think by an alteration in the scale of costs, you would remove a great deal of what now operates to shut such cases out; but all the courses I have mentioned operate.

1447. It has been suggested that a better way of framing this clause would be that the plaintiff should have power to sue to any amount in the County Courts, and that the defendant should have power to remove the case to the superior court?—I think that would be desirable. You would then put the acting part upon the defendant; and in very many cases, the same man who would refuse to consent that a thing should be done, would nevertheless abstain from himself acting in order to prevent it.

1448. Has the unlimited jurisdiction of the County Court in replevin been found inconvenient, when the declaration required by sec. 121 of 9 & 10 Vict. c. 95, has not been made?—I have had no inconvenience brought to my notice.

1449. Have you had many cases of replevin?—Not very many; I have had the ordinary proportion of them.

1450. Has any inconvenience arisen from the present practice in interpleader, where goods are taken in execution?—I am told there has been a great deal. I am told that the expense attendant upon the keeping of the goods is often more than the amount in question; in cases of cattle especially. In many cases a man has, for instance, a favorite pig, and he will not hear of its being sold; it therefore has to be kept in custody, and whether that is upon his own premises or any other, much expense must be incurred.

1451. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—The ordinary cases of interpleader, according to my observation, are almost all fictitious cases; cases altogether got up, mere speculative actions. I think it would tend to check these actions if you required a deposit of the probable amount of costs, before a party should be allowed to question the validity of an execution. I do not remember more than one or two really true cases; the others according to the perfect understanding of every body present, were merely speculative—where some friends of the debtor instituted proceedings by collusion, in order to give him a chance of getting hold of some of the property.

1452. Has it occurred to you whether it would be practicable to introduce a change in the rule which requires the summons to be served ten days before the trial, so as to shorten the period within which the trial would be held?—I have not considered that; but assuming it had the effect of lessening the expense of keeping the goods or chattels, it would be an advantage. I see no reason why that time should not be shortened, the objection always made to me, has been the expense which is incurred of keeping charge of whatever is in question.

1453. Do you think any practice could be introduced, such as applies in replevin, that the claimant should have the opportunity of having the goods returned, upon giving

Graham Willmore, Esq., Q.C.

26th May 1854.

security to try the case or upon deposit with the bailiff?—Yes; upon giving security or deposit.

1454. Is the jurisdiction to give possession of small tenements, under section 122 of 9th & 10th Victoria, c. 95, found to be convenient?—Eminently so; I do not know any part of my jurisdiction that has met with more approval.

1455. Would it be convenient to extend that jurisdiction to tenements of greater value, where the relation of landlord and tenant exists?—I think so; I believe it is very much desired that it should be done.

1456. To what amount should you say; has that occurred to you?—No it has not.

1457. Have you any objection to 100*l.*?—According to my own observation in my own district, I do not think there is a desire to have any limit, people would like to have the power of doing it in all cases where an obstinate tenant insists upon remaining. I think practically it would be very little used; cases of holding over rarely occur except among the lower orders.

1458. You see no objection to the increase of the rent or value, where the relation of landlord or tenant exists?—No, I see none.

1459. Would it be convenient that jurisdiction should be extended to cases of forfeiture where the annual value does not exceed 50*l.*?—I think so.

1460. It has been suggested that cases may occur in which a man lets a piece of land, and it is built upon, and then forfeiture occurs as between the original lessor and the lessee, by which the under tenants of the lessee might be ousted when the property had been largely increased in value; what would you say as to such cases as those?—With regard to these questions, I would make similar answers to them that I did to question No. 3.

1461. Would you limit the amount to the rent or value of the property at the time of the forfeiture occurring;—No.

1462. Do you consider, if jurisdiction were given to the County Courts in cases of forfeiture, it would be advisable to introduce into the practice of the County Courts an equitable jurisdiction to relieve from the effects of the forfeiture?—I do.

1463. Do you think that a common law jurisdiction, in cases of forfeiture, could be safely given to the County Courts without having it qualified in that way?—No.

1464. Is it desirable to repeal so much of the proviso contained in section 11 of 13th & 14th Victoria, c. 91, as excepts judgments by default from the operation of the enacting part of the clause?—In the case of Glyme *v.* Roberts, which is referred to Mr. Baron Parke said, "It is difficult to see the reason why the legislature has excepted the case of judgment by default." I agree with that observation; I should not create a distinction; I think many of these judgments by default are from ignorance or neglect of the parties.

1465. Not seeing that there is any reason upon which the exception rests, do you consider that it would be advisable to repeal the exception?—I think so.

1466. Do you think also that it operates prejudicially in this way, that a defendant may be induced, in many cases, to enter an appearance and put in pleas, and thus to run up parties to greater expense, in order that he might be protected from the costs?—Yes; as it at present exists, it must operate as a premium to the defendant in running the plaintiff to greater expense.

1467. Would it be desirable that the County Courts should have an equitable jurisdiction to a limited amonnt?—That question seems to me to divide itself into two branches; first, whether it is expedient that there should be something analogous to the County Court jurisdiction in cases of equity; and next, whether the present County Court judges should have that jurisdiction. As to the first, I do not see how there can be any difference of opinion, because from all I see and hear in every direction, it is quite clear that, as to the majority of minor cases in equity, parties have no access to justice at all.

1468. You mean to say that there is an absolute denial of justice?—I do.

1469. From what cause?—From the expenses swallowing up the whole amount in dispute. There is a universal outcry upon the subject, and in every direction persons volunteered to furnish me with cases bearing upon this point, some of which I will bring before the notice of the Commissioners, as being more convincing than mere expressions of opinion. They are as follow, and were supplied to me by gentlemen practising in Somersetshire: "We have at this moment going through our office, two chancery suits. In No. 1 the subject matter is a sum of 251*l.*, vested in two trustees, who have both meddled with the fund. One of the trustees being insolvent, the bill was filed, and the prayer was, that the money might be brought into court, and distributed among the beneficiaries. There was no shadow of defence, and a decree was taken by consent. The taxed costs between the parties were over 30*l.*; the defendant's personal costs will be from 20*l.* to 30*l.* more. Instead of this, a plaint might have been entered, and an order made by consent; and with even the present anomaly of the payment of all the court expenses by the suitors, the costs would scarcely have reached 15*l.* No. 2 is now sub judice; the sum in question is 400*l.* unaccounted for by a trustee, under circumstances very similar to No. 1. There is no question of fact or equity raised, and the plaintiffs must have their decree. The costs in the matter cannot be much under 100*l.*, if covered by that figure, as we must go into formal proof. It seems to me that the case might

Graham Willmore, Esq., Q.C.

26th May 1854.

be heard in precisely the same way as in No. 1, and at about the same expense. No. 3 was too poor a case for a remedy. A testator devised a small freehold property to trustees for sale, the proceeds to be applied to charitable purposes. The trustees sold, and one of them received the money; subsequently he discovered that the devise was void, under the statute of mortmain. He retained the money (about 60*l.*), refusing to account either to the *cestui qui* trust or the next of kin of the testator, and died without refunding. This case might have been easily dealt with in the County Court. No. 4, a testatrix, after one or two small legacies, gave the residue of her estate between her brother and and sister, and appointed her medical attendant executor. He proved the will, got in the estate, which was very small, and then brought in a medical bill of some 200*l.*, which absorbed the whole. The case was known to be a gross imposition, but where was the remedy? 200*l.* or 300*l.* would not bear a chancery suit. No. 5 is a practical affair. A testator devised his estate to various persons, but took no notice of debts, &c.; his will was prepared by a non-professional person. He was indebted to divers people, and a creditor's suit was instituted. The usual decree was obtained for sale, &c. The only extra expense incurred was the attachment of one of the defendants for not answering under the decree. The property was sold; the proceeds were over 700*l.* Those proceeds were not sufficient to pay the cost of the suit, and a balance against the plaintiffs (my clients) of some 50*l.* now stands in my office books. You have here five bricks out of my house, I could give you fifty." "H. D. was the holder of an estate (for lives under an ecclesiastical corporation) of small value; all the lives died, and without the knowledge of H. D., the agent who received the rents, renewed the estate in his own name, and thus perpetrated a gross fraud on H. D.; but the amount is small, and the only remedy is a bill in chancery, which is worse than the disease." "H. D. and J. V. are tenants in common of a copyhold estate, of very small value; the copy was granted to J. V., who executed a declaration of trust, that as to one moiety he was possessed in trust for H. D. V. is in possession; he commits waste, and refuses to account, and D. has no remedy but to file a bill for a partition and for an account, but the property is too small to justify such a proceeding." "W. R. purchased a small piece of freehold land in his own name, but with monies belonging to some poor people; he endorsed on the purchase deed; that such was the fact, and that his name was only used as a trustee. On the death of W. R., his nephew and heir-at-law enters into possession of the land, receives the rents, and sets up a title, alleging that the money received by his uncle was paid; the only remedy is a bill in equity, the costs of which would exhaust the estate, and ruin the parties." "M. H. left a large real and personal estate, on trusts for the benefit of her three sisters for life, and after their deaths, for the benefit of her nephews and neices, then living, for life, with the ultimate remainder to their issue, to take respectively their deceased parents' share; the trustees to have power to advance for the benefit of each infant legatee any sums respectively, not exceeding one-half of the infant's expectant share, for education and advancement in the world, with the consent of the parties having previous life estates. Children are still likely to be born, so that it is impossible to know what is the expectant share of each infant. The parents are not able to educate or advance the children consistently with their future expectations. The parties having previous life estates, being the parents or grandparents of the infant legatees, willingly consent to any advances which the trustees may make; and the trustees feel that the advances asked are for the benefit of the infants, and ought to be made. But under the circumstances, the trustees are advised by eminent counsel, that they cannot prudently advance the sums asked for without the direction of the court, as otherwise it might be obligatory on them at any future time hereafter to show that they have exercised a sound discretion. They therefore decline to do so. Accordingly, some time since, a petition was presented on behalf of the infant children of a nephew, for the advance of 1,000*l.* for education. It was necessary for attornies to appear for the trustees, for the parties having life estates, and for the infants, and to produce long and complicated affidavits, setting out the will and all the facts of the case at length. An order was obtained, as of course, authorizing the trustees to advance the 1,000*l.*; the costs were taxed at 103*l.* 14*s.* 6*d.*! Now, two other sums are applied for on behalf of other infants, of 1,000*l.* and 500*l.* for education and to purchase a commission in the Marines. The trustees are advised as before, and therefore still decline to make the advances, except under the direction of the court; other petitions will, therefore, have to be presented, and the same ground travelled over as before, with, no doubt, the same result,—'Order as prayed, costs taxed at 103*l.* 14*s.* 6*d.*' I myself am one of the trustees. I proved the will. I have possession of all the papers. I have kept all the accounts. I know all the parties; and if the County Court judge had jurisdiction, I could produce all the documents before him, and in less than ten minutes state all the facts, and convince him, much more satisfactorily than the Court of Chancery ever could be convinced by affidavits, that the order ought to be made, and I cannot see why the costs of such a proceeding should amount to forty shillings. It cannot be argued that you get an order now from a superior functionary, or with greater checks from publicity; for in such a case as this, the chief clerk of one of the Vice Chancellors would hear the facts and dispose of the case; he indeed would, virtually, make the order. This is only one of hundreds of cases of a like nature, arising under wills and settlements, where the order is obtained as a matter of course; yet the costs are so heavy, that unless the property be large, the application cannot be made. I am convinced that there is no man of an extensive conveyancing practice who

Graham Willmore, Esq., Q.C.

26th May 1854.

could not corroborate this statement." "J. D., the master of a national school, a widower, with two young children, insured his life for 200*l.* By his will he gave a discretionary power to his executors to apply this 200*l.* (the will does not say the interest for the benefit of his two children, whilst under age, and to divide the principal between them when they attained twenty-one years. One of the executors objects to touch the principal, and says that he is justified only in applying the income for the benefit of the children until they attain twenty-one. The residue, after payment of debts, probate and legacy duty, amounts to 160*l.*, and for this sum these two poor children could be placed in an orphan asylum, where they would be educated, clothed, fed, protected, and cared for until they are sixteen, and then be either apprenticed or placed in respectable situations. But the only means of doing this, is by application to the Court of Chancery to approve the scheme. An experienced equity practitioner has, however, given his opinion, that such an application would cost about 50*l.*, and in Chancery proceedings I have never found the previous estimate realized in the result; the expenses are often double, or even quadruple what is calculated. In this case they would probably consume more than half the fund, On the other hand, if a limited equitable jurisdiction were given to the County Court, all the parties and the two children might be produced, and *vivâ voce* evidence given before the judge, who could elicit all the facts and circumstances by a personal examination, far better than the Court of Chancery by mere affidavits, and these poor children could be saved from misery and ruin; and the money, which under present circumstances, is of little or no use to them, be rendered available for their future welfare. The costs of an application to the County Court in this case certainly would not exceed 20*s.* I verily believe that the transfer of a limited equity jurisdiction to the County Court would be as great a public benefit as the common law jurisdiction it possesses at present." "S. P. died in 1850, intestate, possessed of 3134*l.* 8*s.* 6*d.* three and a quarter per cent. stock, held on trust, to apply the dividends to Mrs. H. for her life, and after her death to divide the capital among legatees. P.'s brother and sister administered to his effects, and the sister refused to interfere with this stock in any way whatever. Mrs. H. then petitioned the Court of Chancery, under the 23rd and 25th sections of the Trustee Act of 1850, for payment of the dividends to her; the court held that they could only order payment to her of the dividends actually due at the date of the petition, and that a fresh petition was necessary from time to time, to enable Mrs. H. to receive her dividends. The costs of each petition amount to 18*l.* 2*s.* 8*d.*, nearly 30 per cent. on the income! Were the County Court empowered to summon the trustees, to receive the dividends, or to authorize the tenant for life (on default by the trustees) to receive them, the expense need not exceed 20*s.* or 30*s.* It was found in this case that an application to the Court of Chancery to appoint new trustees was not feasible, some of the legatees entitled in reversion being dead, and having no personal representative to bring before the court, which is necessary on an application to appoint new trustees. After the death of Mrs. H. a serious difficulty will arise to the legatees in procuring their legacies. All this difficulty, all these heavy expenses, might safely and with great advantage be avoided by giving a summary power to the County Court to deal with the fund." There are a variety of other instances: the administration of real estate, where the parties die without any personalty, mortgages, and deposit of deeds, legacies charged upon real estate without power to sell or mortgage, and all such kind of things, which occur in every direction. I took the trouble, as I before stated, to inquire both from lay and professional persons, and the result was a universal reply, that in equitable matters, where the amount is small, a man who chooses to be a knave, can always be so with perfect impunity. If you admit that there should be an administration of justice in these matters at all, you must admit the necessity that some tribunal other than the existing courts of equity should be established. And I think it advisable that such tribunal should be the present County Courts.

It seems to me also, that the very grave question, whether the fusion of law and equity is practicable, would be most conveniently, safely, and cheaply tried in the County Courts. Supposing it is to be tried at all, I cannot conceive how it could be done more favourably or at less risk than by giving jurisdiction in equity to the present County Court judges. This would not, like the amalgamation of the superior courts, be taking a step which might be difficult to retrace. In no way could the experiment be more easily made. By no means could you more safely or easily ascertain whether it answered or not. If it did not, the same process which adds the equitable jurisdiction, could take it away; but I believe the experiment would answer.

1470. Would it be desirable togive jurisdiction in bankruptcy to the County Courts? —If its being desired is a proof of its being desirable, I should say certainly, yes. Commercial persons, bankers, and such-like, professional men also, with whom I have come in contact, wish it particularly. I go to thirteen places in the county. It is often said to me, "We see you on the opposite side of the street once a month; if we could come to your court, we should just cross the street and dispose of our case; as it is, we have to go and take our witnesses to some other part of the country, perhaps travel from 200 to 300 miles." It is said that these delays, and difficulties, and expense keep business out of the court. Instead of going into bankruptcy, compositions and arrangements are made. There is an anecdote which is very rife in my part of the country, that the Commissioner of Bankruptcy, when he attends, often does not put up his horses; he disposes of the whole business while his carriage waits for him. That is a thing that you hear over and over

Graham Willmore, Esq., Q.C.

26th May 1854.

again, the moment the subject of bankruptcy is mentioned. Mine is neither a very commercial nor very manufacturing district; it is principally agricultural; it does not include Bath nor Bristol; it is naturally barren of bankruptcies; probably, therefore, the hardship is more felt, because there is a large amount of the barren district assigned to the Bankruptcy Commissioner, and there is a greater space of ground to travel over, and so people are withdrawn from their occupations. If it is desirable that the Bankruptcy Act should be in operation at all, it is desirable to facilitate and cheapen the operation of it. At present, persons do not choose to permit estates to go into bankruptcy; creditors will rather do anything than make a man a bankrupt, from the delays and difficulties and expense necessarily involved in investigations before that tribunal. A great portion of business is in consequence kept out of the bankruptcy court.

Perhaps I ought to mention, both with regard to bankruptcy, and also with regard to equity, but especially with regard to equity, you must not measure the amount of good which would be done, by giving jurisdiction, by the amount of cases that would come into court. At the present moment, parties possess an impunity. If they knew that they were liable every month to be had up, and the matter to be inquired into, and a decision come to before the County Court judge, the fear alone of that would operate in procuring justice. A man would not dare, if he knew that he was liable to be exposed by a decision, had on reasonable terms, and that in the face of his neighbours, to perpetrate the rascalities, so common now.

1471. You mean that now they not only possess impunity, but that they know it?—They know it; persons have repeatedly told me that a man will say, "What can you do?" that they have been frequently met with that question. The amount of cases which would be actually decided, would not at all indicate the amount of good which would be done; because the possibility of the decision would operate to make persons do right, without any proceeding at all. As we are upon the subject of bankruptcy, I may mention what has been called to my notice, with regard to the estates of dead insolvents. It seems an anomaly and an absurdity, that the estates of dead insolvents should not come into court as well as those of live ones, and that such a number of them should get into chancery, where it is said they often ever afterwards remain.

1472. Would you recommend that they should be administered in the same way as the live ones?—Yes; it seems difficult to assign a reason why they should not. I have had my attention called to it as a special grievance, and an absurdity also.

1473. Would it be desirable to give jurisdiction in the County Courts in criminal matters, now disposed of at Quarter Sessions?—That is a large question. I should suppose that the administration of any kind of justice by persons wholly uneducated and unprepared for it, is a state of things that is peculiar to this country. I do not know that any instance of it exists elsewhere. I practised in the courts of quarter sessions of three counties, throughout a district perhaps the largest in England, except the West Riding, for upwards of twenty years, and was the leader for the latter portion of that time. I saw a great deal of what occurred there, and if you ask the question, is it desirable to have a professionally educated man as chairman, I do not see how there can be any difference of opinion upon the subject; I think everybody would say, it would be better to have such a man. Some things curiously extravagant have come under my own knowledge at the sessions. I have had a chairman say to me upon some point occurring, "You know, these are a sort of things that we do not understand anything about." Upon one occasion, when I was prosecuting a man, the counsel for the prisoner raised objections to the indictment, which the court heard; and then, the chairman in open court said to me, the counsel on the other side, "Is there anything in this objection?" These things bring ridicule, and sometimes dissatisfaction on the administration of justice.

The question put, does not extend to civil matters at quarter sessions, but I think it very properly might do so. That inquiry seems to me quite as important as the other. Questions of considerable intricacy arise, as to the removal of poor, rating for their relief, liability to repair roads, &c. With regard to these subjects, everybody who has practised at sessions, I should think would be of opinion, that it was quite impossible to ascertain beforehand what would be the decision of the court. I have argued cases very often as a matter of principle, against my own conviction, and upon one occasion, I remember the clerk of the peace, a man of great intelligence, wrote upon a piece of paper, which he threw across the table to me, "I think you ought not to have fought that case." The magistrates, after consideration, however, decided in my favour; upon which he wrote me another note, saying, "I withdraw what I have said." A gentleman, who preceded me as leader of sessions, once created great scandal, upon hearing a decision against him, in a very plain case, by offering in open court, the leader on the other side, to toss up for the next case. All these things, though often laughable, produce discredit and scandal in the administration of justice, and therefore, should be avoided. Another thing to be looked at, is the difficulty often experienced in procuring magistrates to form a court. I have been present when the whole business of the county has had to wait for an hour or nearly two hours, before a second magistrate could be found to form with the chairman, a court. I remember that occurring one day when there was a ball in the evening; a great many magistrates came pouring in to dress at the inn, where the chairman and I had dined; and we grumbled at them for having kept out of the way all

Graham Willmore, Esq., Q.C.

26th May 1854.

the morning, while we were scouring the country for a single one, to enable the business to proceed. There is also, no doubt, a very great inconvenience and mischief in the length of time which elapses between one session and another. It is possible for a man to be committed, and to remain in prison nearly three months before he is tried. Suppose that the man is then acquitted, he has undergone an imprisonment which he ought never to have suffered, for you must assume the verdict of the jury to be correct, and there is no remedy for him. If he is found guilty, the court, in many cases of small felony, would not give him so much as three months imprisonment; they have in such a case, to eke out the equity of the matter as well as they can, by taking into consideration the time that he has already been in confinement. Then the sentence perhaps goes forth to the world, "Imprisoned one day, and discharged," that presents an apparent absurdity on the face of the proceedings; the public do not understand it; they never know what it is that has operated upon the minds of the magistrates to produce a sentence apparently so insufficient. Sometimes of two men, who have committed the same offence, one may be caught immediately, the other nearly three months afterwards. They are both tried and convicted together of the same offence, one is imprisoned for a week, the other for three months. Besides all this, by shortening the time between the sessions and holding the trials at many more places, there would be a saving of expense quite enormous. Witnesses, jurymen, constables, &c. would not have to travel great distances, and then be kept, at great expense, for two or three days away from their homes and business and duties; they would merely walk over to the court in the morning, and the matters would be disposed of at once. There also would be the additional advantage that all the neighbourhood would see and know the circumstances of the trial, which they cannot do when the courts of Quarter Session are held in distant places.

1474. Would there not also be this further saving, that the persons who were committed, would have less time to be kept in gaol before the trial?—Yes; as well as the saving in the case of their families, who are now in many cases thrown upon the parish. As to the inconvenience in civil questions, there has been an attempt to remedy it by a late Act of Parliament, which authorizes references to take place at sessions. That is in fact, an avowal by the legislature that the court of quarter session is an incompetent tribunal for the trial of many of these questions. I do not think that these evils would exist if the County Court judge sat either in his own court, or as chairman of the court of Quarter Sessions. In my time, a variety of these cases have been referred, and tried as references, at a prodigious expense. Upon several occasions the court have acknowledged their incapacity at once, and said, "This is a proper case to be tried elsewhere; we do not feel ourselves competent to understand this." And generally that is so, wherever there is any matter of law, or indeed any matter of intricate fact.

1475. There would be two modes of dealing with the question; one would be by taking away the jurisdiction of the court of Quarter Sessions and giving it to the County Courts, and the other by placing the County Court judge on the judgment seat in the court of Quarter Sessions. Would your object be attained as well by the one as the other of those modes, or is there either of the two that you prefer?—Some of the advantages would be attained by making him chairman of the Quarter Sessions, but there would still be other inconveniences, such as the delay and expense, &c., which would not be removed. I may add, that there is a strong feeling against magistrates deciding in game cases. There is even an impression, that a poacher charged with felony, does not always meet with fair play either in his trial or his sentence. It is a common saying among those people, that they would rather be tried by a "Red Judge," which means that they would rather be tried at the assizes.

1476. Then would you propose that there should be a sitting twelve times a year, in the principal towns of the judge's circuit, for the disposal of criminal matters and those civil matters which are now usually transacted at the Quarter Sessions?—I think that would be an advantage, and I cannot think that the magistrates themselves, if you may judge from the character of their attendance, would object to it. They are certainly always present upon the days when the county business is to be disposed of; and so they ought to be, and such business of course should never be removed from them. But when the other questions arise, unless magistrates have an object in looking after the conviction of a man in their own particular neighbourhood, they seem not to think themselves bound to attend, and, as I have said, there is often a real difficulty in furnishing the two magistrates requisite to form a court. The chairman must be there, but to get the second you have often to scour the country. I speak of the experience afforded in my own three counties.

1477. Would it be desirable to transfer to the County Courts the duty of revising the lists of voters?—I would avoid that; I think it not expedient that questions of a political character should be mixed up with the office of a judge.

1478. Is there any other suggestion that you wish to make to the Commission?—As to the means of creating a Court of Appeal, it has occurred to me that such a court might be formed from the body of County Court judges themselves. I think that, disparage the body as much as its greatest enemies may, it cannot be said that six or eight might not be found in whom the public would have confidence; and I think they might be nominated to form a court in banc as I may call it, the members to sit in rota. I would not relieve any of them from their present circuit duty; nor do I think there would be any necessity

for it, because they might arrange among themselves always to have a court in existence so long as there is any business to be done, without interfering with the circuits.

1479. Would you make the decision of the County Court judges sitting in banc final?—Final. I think that such a court would be good in various other ways besides the actual discharge of the business that would come before it. I think there is great mischief in the assumption that when a man is made a County Court Judge, he never can be anything else. I think if the reverse were assumed, if the appointment as County Court judge were not considered a bar to a man's professional advancement, you would have better men candidates for the office. You would have the whole body of talent in the profession willing to go through the previous state of probation, as it would then be, of a County Court judgeship. You would have the quality of the County Court judges prodigiously improved, both by the character of the men that would accept the office and by the strong stimulus they would constantly have to keep themselves fit for the execution of their duties while remaining in that position.

1480. Would you recommend that those County Court judges who were members of the Court of Appeal should have a higher amount of remuneration than others?—Certainly, some species of higher rank, and greater remuneration. The subject of remuneration is a delicate one; but I say, without hesitation, that the present scale of remuneration is too low, especially if the appointment of County Court judge is to be considered as a bar to future preferment. The present is a state of transition and uncertainty in the profession, and therefore there is now a greater facility in finding good men, who were bred up for something better, to accept the appointment. Certainly hereafter you may sometimes, by accident, catch good men, whom circumstances prevent from struggling on for the higher prizes. But in this country, where the rate of remuneration is so much higher, in commerce, public offices, managerships to banks, railways, &c., you must not expect a permanent succession of able, conscientious men, competently trained and educated for such an appointment, if it is to be a final one, at the present pay. The County Court judge, too, especially in the provinces, is placed in a painful and false position. He is made a magistrate, and must associate with his brother justices. If he lives at all as they do, he perhaps spends more than he can afford; he certainly can lay up nothing for his family. If he does not, he will probably meet with slights and disparagement, to which, I think, he ought not to be subjected, and which impair his efficiency.

1481. Do you advise that the other County Court judges should, as vacancies occurred, be appointed members of the court in banc, according to circumstances?—Yes; I think if such a system were adopted that the public would derive another advantage in not being obliged to take as a judge of the superior courts a purely untried man; they would have a man exercised both in Nisi Prius and in banc work, and exercised in the face of the public and the profession, instead of having a man taken because he has a certain standing as an advocate, or because he has certain political recommendations. I think it would be a much more certain mode of testing the merits of a man previous to his appointment as a judge in the superior courts.

1482. You think it would have the effect of stimulating the sixty men to do their best?—Not only that, but you would get better men among the sixty to begin with, if they thought it was the road to a higher branch of the profession, instead of operating as a bar or a shelf. No one would refuse the office, because it would be the best mode of qualifying one's self for subsequent promotion. You would have better men among the sixty, and you would have those sixty cultivating their ability to the best of their power, with the view of afterwards attaining a higher position.

1483. They might be advanced first, to be members of the Court in banc, and next to a higher position?—Yes. There is one thing that I think I ought to say, with regard to gentlemen in the same position as myself, provincial County Court judges, that if the amount of work is to be measured by the time spent in court, a very unfair test would be afforded of what is done by a provincial judge. In my own district, the towns lie distant from each other, and at all seasons of the year, I generally have to rise at six o'clock, in order to get to my work in time. In the winter, of course, the inconvenience is much greater, because there is always darkness at the beginning of my day, and rarely not darkness at the close; sometimes I do not get back till past eleven at night; all of that time, although of course not consumed by sitting in court, is time to be fairly set down as occupied in the work belonging to my office. Besides that, I think, as regards a provincial judge, it is as much, if not more, necessary that he should be a man of ability than the metropolitan one. In the first place, I think that the character of the questions which come before him are more varied, more intricate, and more important than those that come before the judge of the metropolitan courts; and for this reason, the London attorney being on the spot, and generally unwilling either to attend in the County Court himself or to hand over his client to another attorney, tries all the cases that he can in the superior courts; on the other hand, the country attorney must either go up to town, leaving his own office, or trust to his agent, and give him half the profits, when he tries cases in the superior courts. The tendency, therefore, is for the country attorney to try all that he can in the County Courts,—for the London attorney to try all that he can in the superior courts. In the next place, I think what the provincial judge says and does is more the subject of general observation, and it is perhaps, therefore, more expedient to appoint a man who can maintain a satisfactory reputation than in the case of a metropolitan judge. In the country, all the

Graham Willmore, Esq., Q.C.

26th May 1854.

world knows what is done in the County Court; all is put into the newspapers, and occupies a prominent place there. A provincial judge mixes with the magistrates, and everybody knows everything about him. I think, therefore, that the standard for a provincial judge, ought, to say the least of it, to be as high as for a metropolitan judge. Then again, the provincial judge has no access to legal libraries; he may have something of the sort at his own residence, but when he is occupied in the discharge of his duties, he has no immediate access even to that, nor has he the facility of conference with his brother judges or any professional men which a metropolitan judge possesses; so that it is absolutely necessary he should have in readiness not a small amount of information and intelligence. His resources must be within himself. I think it only fair towards those gentlemen who fill the office of provincial judge, that these circumstances should be stated, and I think they show that the position of a metropolitan judge cannot properly be made a kind of promotion. The distance of some of my courts is so great, that I must either sleep abroad, away from my family, or else I must adopt a very tedious and mixed mode of travelling; first of all I must have my own horses to take me to the railway station, distant five miles, then there is the railway, then a branch railway, and then hired horses, before I can get to my court, and the same on my return some days I pass over between seventy and eighty miles in getting to and from the court.

1484. How many thousand miles do you travel in the course of a year?—That I have never calculated but as I have five miles to travel, in order to get to the railway station, supposing I go every day when a court is held, I have upwards of fifteen hundred miles to travel, merely on account of that extra five miles.

1485. Do you think you travel as many as 7,000 or 8,000 miles a year?—I should say so certainly, putting it at a very low calculation.

1486. Are you of opinion that that ought fairly to be considered as part of the labour of the provincial judge, consequent upon the proper discharge of the duties of his office?—I do not see how it can be considered otherwise; it is necessary that he should do it. That may be called mere corporal labour; but after such a journey, I have found from experience, that my mind is not so equal to the work before me, it is a matter of degree. Then, in addition to the fatigue before the work of the day begins, there is the feeling of being jaded at the close. I very often leave home before the persons in my house are up, and return after they have gone to bed. I do not think that the mere number of hours therefore occupied in Court, will give a fair test of the amount of labour performed.

I think that the public attention ought to be very pointedly directed to the fact that while in the rich man's Superior Courts, the suitors pay nothing towards the salaries of judges, officers, &c., yet in the poor man's County Courts, the suitors are taxed to pay for all these, and something extra, by which the State is mean enough to make a small profit. I cannot understand how any one, except perhaps a very timid Chancellor of the Exchequer, could justify or even tolerate an injustice so gross, palpable, and cruel.

With regard to the clerkships of the courts, I would observe, that in my districts those offices are held by gentlemen of honour, intelligence, and education, bearing the highest characters in their profession. And I believe that their character contributes materially to the well-being and efficiency of the courts. Yet their pay, in some instances, is barely remunerative, not more than the salary of a mere copying clerk. The present clerks accepted the offices under the belief that their salaries would be something very different, and hold them in expectation of a change. I do not expect that in the next generation such offices will be so filled, unless some change be made in the salaries.

1487. Do you consider that it would be convenient that the County Court judges should be empowered to sit for each other, without the intervention of any consent from the Lord Chancellor?—Certainly; it seems to me that the fact of the appointment of a man as a County Court judge is, or ought to be, a sufficient guarantee that he is a fit man.

The witness withdrew.

W. F. A. DELANE, Esq., was called in, and examined as follows:

1488. Do you act as treasurer of a district of the County Courts?—Yes.

1489. And have been so from the establishment of the courts?—Yes.

1490. Would it be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court?—I consider that in most cases the plaintiff should be absolutely deprived of costs, without any power being reserved to the judge to certify.

1491. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—I think so.

1492. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—Considering the way in which such matters are disposed of at the assizes, I consider that suitors would gain by the jurisdiction being vested in the County Courts.

1493. When you say "considering the way," do you mean considering the costs of the proceedings or the unsatisfactory mode of proceeding?—The costs, and the unsatisfactory

mode in which those proceedings are conducted. I have had some experience in the courts at the assizes in the country, and I have very generally seen that they are hurried over in a very slovenly manner.

1494. Are you at the bar yourself?—I am.

1495. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation under a will or settlement is in dispute?—Considering the manner in which such questions are now disposed of, I can see no objection to the County Courts having jurisdiction.

1496. Is it desirable to repeal section 128 of 9 and 10 Victoria, chapter 95?—The repeal of that clause would be a protection to the public, and would prevent attornies resorting to the superior courts to avail themselves of the delay and expense of such process.

1497. Do you think that attornies do avail themselves of that section to any very great extent?—I think they do; and I think that many persons would rather submit to lose their right than undergo the delay and the expense of going to the superior courts.

1498. You think that in small amounts the defendant would frequently, even if he had a good defence, forego that defence rather than encounter the expense, delay, and annoyance occurring in the superior courts?—Yes; I think he would. I know in one case in Kent the party gave up upwards of 100*l.*, in order to bring the amount for which he sued within the jurisdiction of the County Court.

1499. What, in your opinion, is the cause of parties not having more generally availed themselves of the jurisdiction by consent, under section 17 of 13 and 14 Victoria, chapter 61?—The power conferred by that clause is not sufficiently understood.

1500. If they did understand it, do you think there are objections to their availing themselves of it?—Yes; I think there are; not by the parties themselves, but by their attornies.

1501. In your experience, when parties are hostile, as they are previous to commencing litigation, do you think they are in a frame of mind in which they are likely to consent actively to anything?—No; I think not.

1502. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient, where the declaration required by section 121 of 9 and 10 Victoria, chapter 95, has not been made?—I think not; I have heard no complaints whatever.

1503. In your capacity as a treasurer, you would probably have heard complaints if any existed?—I think so.

1504. Has any inconvenience arisen from the present practice in interpleader, where goods are taken in execution?—I cannot answer the question.

1505. Have there been many cases?—Very few.

1506. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—I have none to make.

1507. Is the jurisdiction to give possession of small tenements, under section 122 of 9 and 10 Victoria, chapter 95, found to be convenient?—I think so.

1508. Would it be convenient to extend that jurisdiction to tenements of greater value, where the relation of landlord and tenant exists?—I have no doubt of it.

1509. Would it be convenient that that jurisdiction should be extended to cases of forfeiture where the annual rent does not exceed 50*l.*?—Certainly.

1510. You consider that it would certainly be convenient that jurisdiction should be extended to cases of forfeiture, where the annual rent shall not exceed 50*l.*?—Yes; I have no experience in the matter. I have never met with a case of the kind. I merely say I think the facility offered would be desirable.

1511. Do you think it would be advisable to couple that jurisdiction with an equitable jurisdiction, so as to relieve parties from the effects of the forfeiture?—I think it would.

1512. Do you think it would be safe to give the strict common law jurisdiction in cases of forfeiture, without coupling it with that equitable jurisdiction?—The public, I think, all desire to have a limited equitable jurisdiction, if they possibly can, at a cheap rate.

1513. And therefore it would be desirable that they should be coupled together; the common law to enforce the forfeit, and the equitable to mitigate the harshness of such a proceeding?—Yes.

1514. Is it desirable to repeal so much of the proviso contained in section 11 of 13 and 14 Victoria, chapter 61, as excepts judgments by default from the operation of the enacting part of the clause?—I consider that that would be desirable. I ought to say with regard to that, that I have no experience either; in my circuit it is very seldom that any case of that sort arises.

1515. You say you have held the appointment of treasurer ever since the courts were commenced?—Yes.

1516. You have therefore become familiar with the mode of both keeping and the keeping of accounts in the County Courts?—Perfectly.

1517. As far as you have been able to observe, is that system calculated to expose defalcations on the part of the clerks, if any such defalcations exist?—I think so. I think I should find them out very shortly.

1518. At present have the clerks become pretty generally acquainted with the mode of keeping the books, as far as you have observed?—Certainly.

1519. Do you find it necessary to make any alterations or erasures in the books when you come to examine them at your audit?—It depends very much on the sort of clerk you

W. F. A. Delane, Esq.

26th May 1854.

have to deal with; some are rather careless. It is the deputy, not the clerk himself Sometimes they put the fees in the wrong column, or something of that sort, and charge sometimes a wrong fee.

1520. Are they in that state that you have the materials before you by which you can immediately correct a mistake?—Clearly.

1521. Can you therefore at any time ascertain whether a defalcation has taken place on the part of those who have to keep the books?—Certainly.

1522. As far as you have observed, are the books too numerous for the present state of the machinery of the courts?—I do not know that I could suggest at all the abolition of any book with advantage.

1523. Do you know whether the bailiffs or the clerks keep a greater number of books than those which are required by the treasurer?—I believe most of the clerks have one or two private books of their own, and most of the bailiffs also, besides those that are open to the treasurer.

1524. Do they do that of their own accord, or at the suggestion of others?—Of their own accord; because I rather discourage it. I wish them to make their entries in the official books.

1525. The effect of their proceeding in that way then is, at their own instance, to increase the number of books?—Yes.

1526. Do you require when they have kept private books that they should fill up the court books?—Certainly. I take no notice of their private books. I consider that I have no right to interfere with those books at all. I should wish them to keep their accounts in the mode required by Act of Parliament.

1527. And the books are so framed now as to detect readily any fraud or any accidental errors?—I think so, if they are examined as closely as I examine them.

1528. If the treasurer does his duty he can discover immediately whether any defalcation or any error has taken place?—Yes; perhaps I may add, I know that in commercial matters people generally prefer having distinct books for distinct purposes: in a society that I am connected with we have fourteen or fifteen books, which have to be examined every week.

1529. Is it your opinion that a reduction of the number of books cannot practically be introduced into the County Court system?—I think not.

1530. Does that arise from the great number of fees that require to be taken at different stages?—The fees are all contained in the fee book; they are all in one book.

1531. What is the first book necessary to be kept?—The plaint book.

1532. What is the object of keeping that book as distinct from any other?—The object is to enter the names of the parties, the amount for which they sue, their addresses, and all the other particulars that are required by the Act.

1533. Do not all those facts appear in the book which is called the minute-book?—Certainly they ought all to appear there.

1534. And they do all appear there, do not they?—Yes, the greater part of them.

1535. Then it is merely copying from the plaint-book into the minute-book?—Yes.

1536. What in your opinion is the advantage of copying 12,000 or 13,000 cases from one book into the other?—The minute-book contains the record of the judgment of the court in each case, and that minute-book should be before the court at the time the judgment is pronounced; at the same time the plaint-book would be most likely in the clerk's office for the purpose of entering the plaints.

1537. Do you think there is any necessity at all for a plaint-book?—I think there is.

1538. What is the first process if a person comes to the County Court and wishes to take out a summons?—The particulars are given to the clerk, and those particulars are entered in the plaint book.

1539. Is that the first step?—I believe it is.

1540. Is not the first step putting down the particulars in what is called the præcipe? Yes; the particulars are given to the clerk, and they are then entered in the plaint book.

1541. The first particulars are particulars in writing, are they not?—Yes; I should say they are, but I have never been present when those operations have been going on.

1542. With reference to the courts of which you are the treasurer, and to which your experience applies, is it not the case that the first step taken is to prepare the præcipe?—I believe so.

1543. And the præcipe contains the names of the parties, a short statement of the cause of action, the number of the plaint, and the amount sued for, does it not?—Yes; it is only a loose piece of paper.

1544. And from that loose piece of paper the summons is taken out, is it not?—Yes.

1545. It is a copy from the summons in fact?—Yes.

1546. Is the plaint also drawn out from it?—Yes.

1547. And then is handed to the party?—Yes.

1548. Then this loose piece of paper is copied into the plaint-book?—Yes.

1549. And from the plaint-book it is copied again into the minute-book?—After a certain time.

1550. Have you known in your experience in any of your courts, that the clerks have neglected to fill up the plaint-book for a considerable length of time, for some months?—I think I have; I will not say for some months, but for some time.

W. F. A. Delane, Esq.

26th May 1854.

1551. Are you aware that some time ago in one of the courts under your supervision, the plaint-book was not filled up for six months?—I think it could not be for so long a period as six months, because I always examine the plaint-book with the minute-book, and I should have missed it during one of my audits, which are quarterly. I think it might have been two or three months, but I really have not any recollection of the kind, and I think it would be dangerous to draw it into a precedent, for the court to which this refers is very irregular.

1552. Did any practical inconvenience arise from the plaint-book not having been entered up?—I felt it to be a practical inconvenience, because I could not examine it with the minute-book; I require to ascertain that the whole of the entries correspond, the one book with the other.

1553. That is part of your duty?—It is.

1554. Then of course that was a practical inconvenience to yourself?—Certainly, if that was the case. I do not recollect it at this moment if it was; I am sure that I directed them to make up the book immediately.

1555. Was there any practical inconvenience to the suitors arising from the entries not having been made in the plaint-book?—I do not know of any practical inconvenience to the suitors.

1556. You directed the book to be made up in order that you might act in accordance with the legislative directions?—Yes; and I have on many occasions called for the præcipes to examine them, in order to ascertain that they corresponded with the entries in the book.

1157. What convenience is there in having the same entries copied from the plaint-book into the minute-book, instead of having one entry?—In large courts the books are wanted in two places at the same time. I find at Southwark it is as much as the clerk can do to complete the minute-book before another court is held. In small courts I do not see any reason why they should not be entered at once.

1558. When you say entered at once, into what do you mean?—Into the minute-book or plaint-book; you must have some book or other.

1559. You do not think it necessary to have the two books in small courts?—No; because the entries are made immediately, and the court is not held for a month after, and the whole business is cleared up for that time.

1560. Do you mean that there must not be some book in which the plaint must be entered?—Certainly.

1561. And there must be some book in which the minutes of the court and the judgments are entered?—Certainly; if you can make one book serve the two purposes, there can be no objection.

1562. Do you think it practicable?—I think it might be done in small courts; in large ones you clearly could not do it, because the minute-book is required to be in court, and the clerks are issuing plaints for another court at the same time.

1563. Then if it so happens that the state of the business is such that the court is sitting while the plaints are entering, you could not do without the plaint-book?—No; certainly not.

1564. Is it necessary that the plaint should be entered at the time the plaint is delivered?—Yes; I think it is always, and I endeavour to enforce that.

1565. What is the object of that?—Because it is more correctly done when it is done at once, than if it is done afterwards from a number of loose papers.

1566. Is it not, in fact, done from the præcipes which you put together in numbers?—But they are not always put together very carefully.

1567. Can you speak from your own experience as to that?—Yes; I am sorry to say they are not always kept very correctly.

1568. Is not the plaint-book copied from the præcipe?—So I understand; I never saw it done.

1569. And the summons also?—Yes.

1570. Then the plaint being copied from the præcipe, and the summons also, what is the necessity, on the day the plaint is issued out, of the plaint being entered into any book whatever?—If you could make it as correct the next day there would not be any necessity for it; but it is the essence of good book-keeping to make the entries at the time.

1571. Is there any more difficulty in copying the præcipe into the minute-book, than in copying the plaint-book into the minute-book; the one is as easy as the other, is it not?—I should think so, if the præcipe is forthcoming.

1572. Have you ever known an instance in which the præcipe has not been forthcoming in two or three days after it has been handed into the office?—No; I have not; but I have never inquired.

1573. If there were no præcipe, could you do without the plaint-book?—No; certainly not.

1574. Then if in some courts no præcipes are used, but the statement is taken by the clerk, must you then have the entry in the plaint-book?—Yes.

1575. There must either be a plaint-book or præcipe?—Yes.

1576. The præcipe is drawn by the parties themselves, and signed by the party bring

W. F. A. Delane, Esq.

26th May 1854.

ing the action, is it not?—I am told so, I do not know. I never was present when it was signed.

1577. Do you consider that in a case where any question arises as to whether proper instructions have been given to the clerks, and whether the clerks have made the entry in accordance with those instructions, that it is better to look at the præcipe, which is written by the plaintiff himself, or to the entry in the plaint note which is made by the clerk?—I should think the præcipe, certainly, if it is written by the party himself.

1578. Or by his agent?—Or by his agent. I think it arose from some remonstrance of mine in the early part of the sittings of the courts, that these præcipes were all filed and kept together.

1579. Is it not the case now, that they are kept?—They are kept in months, I believe.

1580. And numbered and lettered in the same way as the summonses?—I think so.

1581. Then there being the præcipe, which is, generally speaking, in the handwriting of the plaintiff or his agent, to refer to in case of dispute, is there any necessity for having a plaint-book in addition to that?—I should think so. I myself always prefer the entries in a book to entries on loose paper.

1582. In case of any doubt as to whether the entry is correct or not, would you prefer the entry made by the clerk in preference to the entry made by the plaintiff himself?—I presume the clerk copies the præcipe correctly, and I prefer the entries in the book; it is always sure to be forthcoming, the præcipes are not.

1583. Do you not consider that in copying from the minute-book into the plaint-book there is the natural danger which arises in all cases of having a copy of a copy, which is greater than in having a copy of the original?—You would copy from the original if you could.

1584. Would you not prefer that the copy in the minute-book should be taken from the præcipe rather than from the plaint note?—I really do not think it signifies much, presuming the copy in the plaint-book is correct.

1585. But is not that altogether an assumption?—Certainly.

1586. Where there are a great number of entries to be made at a time, where persons are not overpaid?—I think they are exceedingly well paid.

1587. Do you consider that the clerks, as a general principle, are exceedingly well paid?—The sub-clerks are certainly paid at a higher rate than mercantile clerks.

1588. In the County Courts generally?—Yes.

1589. Are you confining yourself to the few metropolitan courts?—The metropolitan courts.

1590. We are speaking of the courts generally?—In the courts generally the clerks are merely paid by fees, in the metropolitan courts by salary.

1591. Where they are paid by fees, do you consider that they are well paid?—No, I do not; my answer was meant to apply to the metropolitan courts only.

1592. Notwithstanding their being well paid, do you not consider that in the great number of entries which they have to make in the course of a year, errors will creep in?—Certainly.

1593. When you overlook the accounts once every quarter, do you not find even in the best courts that there are a considerable number of errors?—Not many in the best courts.

1594. In the worst courts do you find as many as one in a page, or anything like that, that you have to alter?—No.

1595. Not even in the worst courts?—No.

1596. Not so much as one in a page?—No.

1597. You have said that the præcipe is generally written by the party himself, and that the plaint note is written by the clerk?—The præcipe ought to be written by the party or his agent; I do not know whether it is.

1598. And the plaint-book ought to be kept by the clerk?—Yes, it is the clerk's book.

1599. And the minute-book is copied from the plaint-book?—It ought to be.

1600. Then the minute-book is the copy of a copy?—Certainly.

1601. Either there must be a bundle of præcipes, or there must be a plaint-book?—Certainly.

1602. Which do you think is the more convenient for the purposes of the court, a bundle of præcipes, which consists of pieces of loose paper, or the book?—I prefer the book.

1603. Would you say that no præcipe ought to be kept?—No, I do no say that.

1604. Do you think that both the præcipe and the book ought to be kept?—Yes; I would rather that they should both be kept.

1605. Assuming that the præcipe is kept, what is the use of the plaint-book?—The use of the plaint-book is to enter all those præcipes in it.

1606. Are not the entries also made in the minute-book?—Yes, afterwards.

1607. At a later period?—Yes, when it is preparing for the court.

1608. What does it signify at what time the entry is made?—It does not signify at all, but the præcipes are merely loose papers; they might be destroyed by negligence or accident. The plaint-book is always forthcoming.

1609. If the plaint-book was copied from præcipe, would not that do just as well as the minute-book being copied from the plaint-book?—I suppose it would.

1610. What is the use of having two copies of the same transaction except to increase labour?—No use at all. The plaint-book, I should say, is rather the clerk's book, the minute-book is the book of the court.

W. F. A. Delane, Esq.

26th May 1854.

1611. What is the use of the clerk having a book?—To refer to upon all occasions.

1612. Why cannot he refer to the minute-book?—He may do so if he likes.

1613. Then if he may, what is the use of his having two books to refer to, the one a copy of the other? do you perceive that there is any use in having the two?—No, certainly not.

1614. Would it not diminish the labour of the clerks very considerably by not keeping this book?—The labour of the clerk in that particular is really not worth thinking of.

1615. Has it ever occurred to you what would be the actual labour of transcribing 13,000 præcipes into a book?—No.

1616. Whatever the time would be, it would be saved if the thing was not copied twice over?—Just so.

1617. Should you think it convenient to substitute the bundle of præcipes for the plaint-book?—Certainly not.

1618. Have you any experience in the country courts, where the office of the clerk is at a different place from the court itself?—Yes.

1619. Should not the plaint-book, as parties come continually to enter plaints during the sitting of the court, be kept at the office?—Clearly.

1620. And should not the minute-book be in the court, so that the clerk may enter the judgments delivered by the court?—Certainly.

1621. Then it is convenient to have the plaint-book at the office, and the minute-book at the court?—Yes.

1622. Both being used perhaps at the same time?—Yes. I think I mentioned that at the outset.

1623. The plaint is issued upon the præcipe, is it not?—I do not know exactly how that is; my knowledge of the course pursued by the clerk is not sufficient to enable me to speak to it. The entry ought to be made at once in the plaint-book. It is the essence of good book-keeping, as I said before, that it should be made at once; if entries are to be made a month or six weeks from recollection, of course they must be very incorrect.

1624. They cannot be made from recollection at all, can they?—I am afraid they have been attempted to be made from recollection.

1625. Have you known any instances where entries have been made in the plaint-book from recollection?—I have sometimes found that there has been an incorrect entry of the name and of the address of the party, and when I have referred to the præcipe, I have found them quite at variance.

1626. You have found a variance between the plaint-book and the præcipe?—Yes.

1627. Is that a very unusual circumstance?—I merely mention that to show that persons should make the entry the moment the præcipe comes into their hands, and the plaint is issued.

1628. But you find practically that they do not do it?—I find practically that they do in nearly all the instances.

1629. But not unusually it occurs that there is a difference between the plaint-book and the præcipe?—There has been. In the Southwark Court, from the amount of business that is done there, they are obliged to keep the plaint-book constantly in the clerk's office, while the minute-book is before the court.

1630. What special reason is there in the Southwark Court for using the plaint-book which does not exist in the Lambeth Court?—Perhaps scarcely any, only I suspect that the practice of the Lambeth Court is not quite so correct as the Southwark Court.

1631. You do not think the books are so well kept?—Certainly not.

1632. Then, according to your view of the case, where a person comes for a plaint, and delivers a written declaration for a plaint, it should be immediately entered in the plaint-book?—Yes.

1633. And at the same time, if the court be sitting, the minute-book would be in court?—The minute-book would be in court.

1634. Then in order correctly to transact the business of the office, there should be a plaint-book and a minute-book?—Yes; I think so.

1635. It is essential?—Yes; I think so.

1636. You say you must either have the plaint-book or the bundle of præcipes, and you think it is much more convenient to have the plaint-book than the bundle of præcipes that contain the instructions of the party suing?—Certainly.

1637. And that, although you have found often that there is a difference between the entry in the plaint-book and that on the præcipe?—Yes.

1638. Are you aware whether the præcipe is generally used?—I think it is very little used in the country.

1639. Is there any court over which you have any jurisdiction in which it is not used?—I cannot answer the question, because I do not uniformly call for the præcipes in every case.

1640. Is it not, in your opinion, advantageous that the instructions given by the suitor should be in writing?—Certainly.

1641. Therefore you think that the practice of having the præcipe is a good practice?—I should say that if I was a clerk, I should prefer it.

1642. You would prefer it to the instructions being given verbally?—Yes.

W. F. A. Delane, Esq.

26th May 1854.

1643. Whether as clerk, or for the benefit of the suitors?—Yes.

1644. In entering the præcipe into the plaint-book, errors occasionally creep in?—I cannot say on which side the error is. If I had had any idea of the course to which your examination has taken, I would have endeavoured to ascertain the fact, but it is so long ago that I am not able to say.

1645. Do you think it would be advisable that the County Court clerks should be bound to keep the præcipes?—I think so.

1646. And to give up keeping the book?—Oh no.

1647. Do you think they ought to keep both the præcipes and the book?—Yes.

1648. Do you know that where there are written præcipes they do not keep them?—I do not know that, I have not had occasion to make the inquiry. I should say that I have found the entries in the plaint and minute-books tolerably correct; it is only when there are some discrepancies that the written instructions are required.

1649. In what book is it that you find that the entries are most incorrect?—I consider that the plaint-book is the foundation of the whole cause; therefore I begin by examining that with the minute book to see whether they correspond with each other; if I find that they do not, I call for the præcipes.

1650. If you find that the books correspond, you do not call for the præcipes?—No.

1651. One of those books being a copy of the other book, if both happen to be wrong, you would not discover the error?—No; I could not, certainly.

1652. Would any harm ensue from that?—Not the least; the amount is the same, and the names of the parties; it is sufficient for me to ascertain that the fees are correctly charged; that is my object.

1653. Then is it the fee-book that you chiefly look to?—I examine the fee-book at the same time with the other books.

1654. But is it the fee-book that your attention is chiefly directed to?—My attention is equally directed to all the books.

1655. Unless you looked at all the books, you could not ascertain that the fee-book was right?—Certainly not.

Adjourned to Tuesday next, May 30th, at 12 o'clock.

Tuesday, 30th May 1854.

HENRY SINGER KEATING, Esq., M.P., IN THE CHAIR.

U. Corbet, Esq.

30th May 1854.

UVEDALE CORBET, Esq., was called, and examined, as follows:

1656. Are you judge of the County Court district number 27?—I am.

1657. Were you appointed judge of that district upon the passing of the Act?—I was, in February 1847.

1658. Before that had you considerable practice for many years upon the Oxford circuit?—I was in practice on the Oxford circuit.

1659. And of considerable standing?—I was called to the bar in 1815. I also was judge of one hundred court, and as recorder of two borough courts; consequently, my attention was called to the necessity that existed for the present courts.

1660. Will you state generally to the Commission what are your views with reference to the proper limit of the jurisdiction of the County Courts with respect to their efficiency in carrying out the objects that you think are desirable to be attained by them?—I think the compulsory limit has been attained by putting it at 20*l.*

1661. That is the compulsory limit?—Yes.

1662. Do you mean 20*l.* as to money demand?—Yes.

1663. And what do you say as to actions of tort?—I think that is too high to be compulsory.

1664. What, 5*l.*?—I think so. Many actions of tort involve matters of great importance, which the parties may wish considered before a full jury, also to have the advantage of the opinion of a judge of the superior courts.

1665. Then you would not be in favour of extending the compulsory jurisdiction, either in matters of tort or contract?—I am decidedly opposed in opinion to the expediency of extending the compulsory jurisdiction of the court at all.

1666. Will you state generally your reasons for coming to that conclusion?—I think that in questions beyond the amount now subject to the compulsory jurisdiction, the parties are entitled to the assistance of a full bar, and to have their case heard before the judges of the superior courts; and that however convenient it might be occasionally for a particular individual, no substantial public benefit would arise from having an increased compulsory jurisdiction. It would only lead, as it strikes me, to an immense number of applications for appeals or new trials, if the right to apply for them to the superior courts is given. These applications are sufficiently numerous at present, and must be very much

increased if important cases were tried with an inadequate bar, or no bar at all, and before a County Court judge, who, whatever may be the soundness of his decision, carries less personal weight with him than a judge of the superior courts. I do not think it would be desirable to extend the optional jurisdiction beyond 50*l.*, except with the consent of both parties, as at present provided. Sometimes this power is exercised by the suitors of my courts, but not often.

1667. As far as your experience goes, have you found them disposed to waive the question of jurisdiction?—Occasionally parties have done so. Upon the whole I think that they very wisely abstain from having recourse to the voluntary clause. It is not to be expected that parties who have large interests at stake will be satisfied with the inferior jurisdiction. You have now the three proper steps,—a compulsory jurisdiction in small matters, an optional jurisdiction to a limited amount, and by consent, an unlimited jurisdiction. I do not know what can reasonably be wished for more.

1668. You have remarked upon the absence of a bar. Supposing that an extension of the jurisdiction would tend to the establishment of a bar, from your experience and knowledge of these matters, do you think much good would result to the suitors, or to the public generally?—None to the suitors, and very little to the profession.

1669. Why do you arrive at that conclusion?—Because there would not be sufficient maintenance for a competent and numerous bar; and an isolated and ill-paid bar would be no benefit to the public or to themselves. You cannot attract men unless you have something to pay them, and I do not know anything so mischievous in legislation as to force important questions into the hands of an inferior class of practitioners, which I think would be the consequence.

1670. Do you think that would be the result of any considerable extension of the jurisdiction of the County Courts?—The inevitable result. You could not work it without a bar. I will not say, perhaps, that you could not, because you have able men not of the bar who attend to County Court business; but it would lead to that; and when you consider the extreme difficulty there is in raising the debt which is due, or the damages which are obtained, every sovereign that you add to it in the way of expense makes a very great difference; it makes the difference of half a loaf or no bread to families for weeks. It is at the option of the plaintiff to employ counsel, and if it is a proper case in which to employ counsel, the discretion of the judge is nugatory. It is a great relief to the judge to have professional assistance, still I consider it is no part of his duty to seek that assistance unless the parties wish it.

1671. Assuming that the primary object of the County Courts was the recovery of small debts, and at the smallest possible expense to the parties, would the extension of the jurisdiction to any considerable amount, and the consequent establishment of a local bar, and of County Court attornies, in your judgment, interfere with that primary object?—I think it would very much interfere with, if not destroy it. The County Courts are useful in proportion as their practice is simple; the questions and the cases which at present come before them are generally of a simple character, and you are not occupied for two or three days in hearing questions which would necessarily require that time. If you introduce the kind of business that some have suggested—such business, in fact, as is now disposed of in the superior courts, there is an end to the simplicity of our movements, and the cheapness of our practice. You would subject suitors, who cannot afford it, to all the delays which now form one of the principal causes of expense in the superior courts. As it is, I frequently have the application made to me, "Do hear my case now, for I cannot afford to come another day."

1672. Might not that difficulty be avoided by marshalling the business, as is now done in some of the courts?—I do not see how you could do that on the circuits. It may be done in metropolitan or residentiary courts, but I do not see how you could apportion your time in that way in the circuits.

1673. Would you not know what causes there were to come on?—Not in time to fix your circuits. You would then be obliged to waste a good deal of time. I have an extensive circuit. It takes me eleven days to go round it, assigning a day to each place, and I generally manage to get through the work in that day. If necessary, I sometimes have an adjournment; there are only three places where it is ever required, and that only now and then; but if these additional cases were to come, I do not see how the business could be arranged.

1674. You think that the power of marshalling the business would only apply to metropolitan districts?—Yes; or to such places as Liverpool and Manchester, because there you might say, "I will take undefended cases one day, and defended cases another day;" but if that was done on circuit, I should be occupied, very frequently unprofitably, every day of the year.

1675. Then is it the result of your opinion that any considerable extension of the jurisdiction of the County Courts would tend to interfere with the attainment of their primary object, namely, the recovery of small debts?—I think it would destroy their utility. I think they are admirably conceived for the purpose for which they were originally intended, but not at all adapted to any considerable amount of extension.

1676. Do you think that an additional staff of judges would obviate or mitigate the difficulty?—It might make it practicable, but not, I think, desirable. In short, I am of opinion that the establishment of the County Courts ought not to interfere with the

U. Corbet, Esq.

30th May 1854.

access of the public to the superior tribunals of the land, and that if you extended the jurisdiction, as many have suggested, you would interfere with it.

1677. Do not the costs of the superior courts close the door of those courts against the man of moderate means?—That sometimes happens, but I do not think it prevails to any great extent. Besides, you must not legislate too much for economy—there is a wise and an unwise economy; the best policy would be to lower the expenses of the superior courts, and not to give the jurisdiction of the superior courts to the inferior.

1678. You have stated that the appointment of additional judges would render the performance of additional duties practicable, though not desirable. Supposing additional judges were appointed, would there not be all the appliances of court houses, officers, and other persons who now have very little to do?—That involves another question of expenditure. You have a court house at present, for which you pay but little, because it is seldom used; and you have a staff of officers working for a very inadequate remuneration, who would not undertake the duty if it was to interfere more with their time, unless you gave them good settled salaries; and to have a set of inefficient officers would be a great nuisance to the country.

1679. In your experience, do you find that cases between 20*l.* and 50*l.* give less trouble, and occupy less time, than others?—Yes; generally speaking. Now and then we have a case—such as a railway case—of injury to goods or cattle, and things of that kind, which occupy the whole morning.

1680. When you speak of extending the jurisdiction of the court, do you allude to the jurisdiction measured by money amount?—Yes; I think in going beyond 50*l.*, you are liable to get into very heavy cases.

1681. You do not object to the increase of jurisdiction, if it does not lead to a great increase of occupation of the time of the judge?—No; the time of the judge must be devoted to the public as far as it can be; that is not my objection. I think it would operate injuriously, that you would not be able to do your business as you do now; and anything that interferes with your monthly circuit, however small the business may appear numerically at present, is an evil, if you are to have an equal distribution of justice. At present the judge is able to exercise a control over all the proceedings, and although persons have not an opportunity of applying to the judge out of court, yet by going once a month to each place, that difficulty is removed, and parties wait till the judge comes, but if you were to have the circuits once a quarter, you could not work it in that way.

1682. When you speak of the occupation of time, do you mean that the class of cases which would come under an extended jurisdiction, would occupy more time?—Yes; necessarily so.

1683. Then with respect to the jurisdiction, you rather mean that it would be objectionable if it had a tendency to bring in difficult cases, than cases of large amounts?—Yes; but I think the one involves the other to a considerable extent.

1684. Did you not say that the larger the amount was, the less was the trouble?—No, not beyond 50*l.*; up to that amount I think it works well; indeed they are cases generally unencumbered with difficulty, but I do not think it is desirable to increase the amount. You would make an addition to the duties of the County Court judge which would interfere with his general utility. The people know nothing and do nothing themselves, but they are perfectly satisfied with what the court does. If you tell them they have certain rights, but recommend them to waive all matters of form, and go to a settlement, they will do it. If I say to parties, "Your summons or defence is wrong, but if you both like to waive that point and have your case heard to-day you may." The reply is generally, "Do hear it to-day."

1685. In cases of small amount you are able to do that, are you not?—Yes, and I generally find all the professional men ready to fall into that plan. They know parties cannot really afford to pay much for legal assistance. I always did that before we had the present powers of amendment by the consent of the parties, put the question of pocket and attendance to them, and they are always ready to go into the merits at once, unless delay is required on account of the absence of witnesses.

1686. You are of opinion that the extension of the jurisdiction would interfere with the primary object of the County Courts, namely, the recovery of small debts?—With their economical recovery.

1687. Would that opinion be fortified by the fact that the statistics of the County Courts show that in proportion as the amounts between 20*l.* and 50*l.* have diminished the amounts under 20*l.* have increased?—That fact would rather support the opinion I have come to. I do not think they have much to do with each other, because I believe that the cases from 20*l.* to 50*l.* that have not been brought into the County Courts have been taken into the superior courts, because the costs of those courts have been reduced, and therefore parties have had recourse to them. At the same time you frequently get a class of cases in the courts now that never used to come there, because parties were not aware that they could get relief in such matters. I do not speak of cases of debt.

1688. What are those cases?—Why, there is hardly any little petty dispute between man and man that does not now come into the court. The clearing of shop books has reduced the number of cases at first, but now the amount of work is sustained by other cases. At first parties imagined that the County Courts were only applicable to small

debts; they acquire their information slowly. In my own circuit things remain at about the same average. There has been a diminution of late, not in number, but in cases above 20*l.*, which I attribute simply to the reduction of the cost of suing in the superior courts.

1689. You would account for the increase of claims for small amounts from the fact of the utility of the courts becoming more generally known?—The facilities, as well as the utility, I should rather say.

1690. But you think there is no other connexion?—No; they appear on the face of them to have a connexion, but in fact I believe they have not.

1691. Would it be convenient that a plaintiff suing in a superior court in an action of tort, and recovering less than 20*l.*, should be deprived of costs, unless the judge certifies that the case is fit to be tried in the superior court?—No; and for the reasons already given.

1692. Would it be convenient that a plaintiff suing in a superior court in an action of contract, and recovering less than 50*l.*, should be deprived of costs?—No.

1693. Would it be convenient that the County Courts should have jurisdiction when the title to any corporeal or incorporeal hereditament comes in question?—That is a point upon which I entertain some doubts; but I think upon the whole that it had better rest as it is. Sometimes I have felt a desire to be able to have jurisdiction, but I do not know whether it would work well on the whole. Now and then you might have a question of title, involving a merely nominal amount, but which may involve matters to a much larger amount, and therefore I think the public are much safer without the jurisdiction.

1694. Do you frequently find that the issue which you really have to try, which has brought the parties there, branches out into a question of title?—Occasionally, but very rarely.

1695. And as soon as it is stated that it is a question of title you do not adjudicate upon it, your hands are of course tied?—No; not as soon as it is stated, but as soon as it is proved, and then I sometimes have the objection waived. I say to the parties, "I think a question of title is involved here," and the parties have said, "We see no objection to your deciding it," and I have done so.

1696. Will the waiver give you jurisdiction?—It can only be done by consent; anything may be brought before the court by consent.

1697. If you have to decide the question of title which is raised, would not that nullify the judgment afterwards?—Not by consent in writing.

1698. You mean under the seventeenth section of the statute?—Yes.

1699. In those cases the parties frequently submit to your decision on such occasions?—I will not say frequently, but occasionally. I think the reason why this jurisdiction was wisely omitted at first was, because you may have cases of title come before you on a nominal amount, which may extend to very serious considerations and affect very large interests.

1700. Under the consent clause of course all difficulty is obviated?—Yes.

1701. But if parties do not choose to consent in that way the effect would be that you must hold your hands?—Yes.

1702. It has been suggested that a great portion of the difficulty which you have referred to might be obviated if it should be provided that the judgment of the County Court judge should not be an estoppal on either party in any other court or in any other action: would that, in your opinion, obviate the difficulty?—The very suggestion shows the policy of the present provision and the impolicy of its proposed extension.

1703. Take the case of a question between two men as to five shillings: the primary object which the plaintiff has in bringing the matter before the County Court is to get your decision upon the five shillings; the circumstance happens that in getting your decision a question of title arises, and unless the defendant will consent you are powerless, and must dismiss the plaint?—Unless they both consent.

1704. Then if the object is to obtain the five shillings, what objection would there be to allowing you to decide the matter, so that the effect of your decision would be confined in effect to the five shillings: would not that obviate the difficulty in some degree?—It is really more a question of principle than practice; the cases in which questions of title really arise are so few, they do not occur on my circuit probably above two or three times in the course of the year.

1705. In your judgment would it be advisable, with reference to the administration of public justice generally, that a man should be able to go before the County Court and recover ten shillings, involving the proposition that a particular field belongs to A, and that then subsequently, when it has been decided to belong to A, it should in another court be decided to belong to B?—I cannot conceive a more mischievous piece of legislation in a little way.

1706. Suppose a person brings an action for ten shillings, thinking and knowing nothing about title, but wanting his ten shillings only, and the proper damages for the wrong that has been done; the defendant raises a question with respect to title, the plaintiff will not go to the superior court in order to get his ten shillings; in that case might not the decision of a county court judge on that point be reasonably put forward, beside the question which is then between the parties, his decision not binding them or their privies?—I think you ought not to have that mutilated power; besides, the right to recover the ten shillings would depend upon the question of title.

U. Corbet, Esq.
30th May 1854.

1707. You think it is not desirable?—No; I do not upon the whole. It may afford relief to A or B in very isolated cases, but you would be legislating on very mischievous principles to give relief in very trifling cases.

1708. Supposing in those cases a right of appeal were allowed, would that remove the objection?—If a question of title is involved, you should certainly have the right of appeal, and then you are just where you were. You get the expense of the superior as well as that of the inferior court; there may be a rich man on one side and a poor one on the other, and if the rich man is the plaintiff, as is generally the case, you have the liability to expense thrown upon the poor man, whether he will or no. I, however, have no hesitation in saying, that if you give jurisdiction in title, an appeal should also be given.

1709. Suppose the common case of cottages not above 11*l.* or 12*l.* a year, and that they are tumbling down, and the landlord wants to get possession of them, and no doubt the landlord is entitled to them; there a question of title would arise?—If there is a tenancy, the landlord gets possession without any trouble.

1710. Are there not other cases where a minute question of title may arise: the matter in dispute between the parties being a very small amount, and the question of title being a mere accident in the inquiry, would it not be desirable that some means should be devised by which the opinion of a county court judge should be taken upon the matter, and thus enable a man to get substantial justice upon the small amount which he seeks to obtain, than that the county court judge's hands should be tied, so as in fact to deny him his right?—In my own opinion, though I have had cases come before me where I wished I had that power, they have been so few that I should be more inclined to let the matter rest as it is; but if it is to be given at all it should be with an appeal.

1711. An appeal as a matter of right?—Yes, whatever the amount may be. I am, personally, much more satisfied where there is an appellant jurisdiction, but it would not work well, I think, below the present amounts. The practical evil has been much done away with. As to the question of title, as the judge is not bound to take the ipse dixit of the party, but he is to inquire whether title does or does not come in question, and it is not one case in ten perhaps in which a question of title has been suggested, that I have found that it did really arise. I think the decision of the Queen's Bench, that the judge is to decide whether the question of title arises or not, did away with that mischief.

1712. Have you, in your experience, found the want of jurisdiction as to questions of title involve any serious consequences practically?—I have found practically, I may say, none, for the instances in which I could have wished to have that jurisdiction during seven years have not been half a dozen, and out of those half dozen, perhaps, I have had jurisdiction given by consent in three or four.

1713. Suppose it were found desirable to give a jurisdiction where title came in question, you say that it would be desirable in such cases that there should be an appeal as a right?—Yes, I think so.

1714. Would it also be desirable in your judgment that that jurisdiction should be limited by the value of the property, the title to which came in question?—Yes; I think it should follow the general principal, parties should not be put in a false position by a compulsory jurisdiction.

1715. Would it be convenient that the County Courts should have jurisdiction where the validity of a devise, bequest, or limitation, under a will or settlement. is in dispute?—I answer that question in the same way as I did the other,—No; for this reason, that you may have very small amounts, involving nice questions, and I think public policy requires that such questions should be confined to the superior courts. It may give relief to A or B, but it would not be a general benefit.

1716. At present parties have the right to settle small questions involving money demands and small torts, before the County Court, and it has been found productive of great good; do you see any reason why a testamentary jurisdiction to a limited amount should not be given to the County Courts. Should you think it desirable if the jurisdiction of the County Courts was to be extended, that that would be a useful direction in which to extend it?—I should think it might. I do not know exactly how it is proposed to do it, but I should think it possible; it would depend a good deal upon what the provisions are with regard to the the Ecclesiastical Courts, because if they are to be placed locally through the country, so as to be of easy access, the object might be obtained by that means.

1717. Is there anything in the constitution of the County Courts to preclude their having jurisdiction to take proof of wills, and so on, where property is of small amount?—In all cases where the party dies, leaving property, say under 50*l.*, I think it might. Parties also might be permitted to apply by summons to the court to administer small estates; and if no proper administration is suggested, the clerk of the Court might be appointed to act, or something of that kind. This, however, is a new question to me, but I think with my views of the useful powers of the County Court, it might be carried out advantageously, as extending the legitimate use of the County Courts. We very frequently have little disputes on this subject; there is nothing that the poor are so contentious about as the chairs and tables that are left behind by their relatives. I think it a point quite worthy the attention of the Commissioners, and which might be carried out without any inconvenience.

U. Corbet, Esq.

30th May 1854.

1718. Have you found as matter of fact that cases of hardship do arise for want of some jurisdiction to distribute very small estates in case of the death of poor persons?—I dare say that such cases more frequently arise than we hear of. I think it is one of the most useful extensions that has been suggested.

1719. Then you think that an extension of jurisdiction in that direction would be useful?—I think so. I have no objection to the extension of jurisdiction if it goes in the right direction.

1720. Is it desirable to repeal section 128 of 9th and 10th Victoria, Chapter 95?—I think it is not desirable.

1721. What in your opinion is the cause of parties not having more generally availed themselves of the jurisdiction by consent, under section 17 of 13th and 14th Victoria, chapter 61?—They wisely prefer having recourse to the judges of the superior courts at the assizes.

1722. Do you think that the costs of the attorney have anything to do with it?—I think it may; it depends upon how far the parties are under the influence of their attorney. If I had a case of magnitude myself I should go to the assizes; I think it is the proper work of the superior courts. I think it will be a great misfortune to separate the important business of the country from the superior courts. A or B may save a few pounds in a particular action, but the general administration of the law would suffer, and consequently the interests of the public.

1723. Do you not think that the indisposition of parties to consent at all, when once they begin to prepare for litigation, may have something to do with it?—No, I do not. I think parties more generally begin by consenting to this and that, and then separate, and stand on their right.

1724. Then you would think it rather the converse?—I should think so.

1725. Has the unlimited jurisdiction of the County Courts in replevin been found inconvenient where the declaration required by section 121 of 9th and 10th Victoria, chapter 95, has not been made?—I have found no inconvenience.

1726. Has any inconvenience arisen from the present practice in interpleader, where goods are taken in execution?—None on my circuit.

1727. Have you any suggestion to make for the purpose of improving the practice of interpleader in the County Courts?—On my circuit, where parties consent, security is given, and the expenses of possession are saved; but that is a matter which must depend upon the particular case and the good sense of parties. I think it would be difficult to frame general rules on this point; it is sufficient that there should be a disposition on the part of the judges, officers, and attornies, where practicable, to do it; it is everybody's interest; I think it had better be left to work itself. A diminution of the length of notice required may be desirable.

1728. Is the jurisdiction to give possession of small tenements under section 122 of 9th and 10th Victoria, chapter 95, found to be convenient?—Very, I should say.

1729. Would it be convenient to extend that jurisdiction to tenements of greater value where the relation of landlord and tenant exists?—I do not see any objection up to 50*l*. I think it desirable. But I have not heard any complaints of the want of that power. Generally speaking, the disputed matters relate to small tenements, not large ones, and cottagers who object to leave because they have not another house to go to; that is generally the best reason a man gives for staying in. In large farms the notices are generally given in proper time, and formally, and are attended to. I should say it would be better to let it alone, or put the limit of 50*l*., otherwise you would be extending the principle of action for no adequate good.

1730. Would it be convenient that that jurisdiction should be extended to cases of forfeiture where the annual rent does not exceed 50*l*.?—That I should think had better be let alone, because forfeiture involves a serious class of cases, and those upon which the law is more jealous than in most others.

1731. Would it be desirable to do it if an equitable power was given to relieve against forfeiture?—That is still trenching upon the proper business of the superior courts, because forfeiture does not often apply to small holdings, but where larger interests are at stake.

1732. Is it desirable to repeal so much of the proviso contained in section 11 of 13th and 14th Victoria, chapter 61, as excepts judgments by default from the operation of the enacting part of the clause?—Yes, I think parties should be upon the same footing, whether judgment is by default or otherwise.

1733. Would it be desirable to give an equitable jurisdiction to a limited amount to the County Courts?—That, I think, is a very questionable matter. If you give the equitable jurisdiction, it should be stationary, and not ambulatory; or power should be given to the judge to hear anything of that kind at one or more of the principal places on his circuit.

1734. You think that the number of small equitable courts could not be conveniently met?—No; I think it would interfere very much with the circuit system. For instance, part of the business would be taking accounts, which frequently may occupy many hours. It has occurred to me that if it is considered desirable to give a local jurisdiction in bankruptcy and equity, it might be done by uniting two districts or so for that purpose, and having an equity judge for such districts, so that he might sit continuously from time to time at one or more places in each circuit.

U. Corbet, Esq.

30th May 1854.

1735. You think it should not be part of the County Court system?—Not part of the circuitorial system. I think that it would impede it; and I think the free action of it is essential to the well working of the system, because it enables the judge to keep a general superintendence, which is quite necessary, for you have to take care of everybody. Persons seem to think that the County Court is to take care of them, and they are generally content with what is done, but they scarcely ever read any of the printed instructions, and do not understand them when they have read them.

1736. Would it be desirable to give jurisdiction in bankruptcy to the County Courts?—My opinion is that it is desirable to have bankruptcy administered more locally than it is at present, because I believe that the practical result of the present extended districts is that a great number of the bankruptcy cases of small amounts do not get investigated at all. I was a commissioner of bankruptcy, and had rather a heavy district, and I found that in proportion as the amounts were large, my trouble was little as a general rule; where the books were regularly kept there was no difficulty in ascertaining how matters were carried on; but where the son or daughter or wife, singly or collectively, managed the accounts, and there had been a good deal of cross dealing, everything was irregular; and the moment such parties get into difficulties they were frequently trying to appropriate everything. These were the cases that occupied most time. I think that such cases had better be inquired into locally, but it would not necessarily or conveniently form part of the work on circuit, but you might have one or two towns in each county selected by the judge, at which sittings in bankruptcy should be held in general with power to fix particular meetings anywhere, or if there was an equity jurisdiction given, I should think that the best course would be to unite districts for equity and bankruptcy, without the incumbrance of a circuit, confining the sittings of the court to a few central towns in the east district.

1737. When you say that the introduction of an equitable jurisdiction to the County Courts would interfere with the circuitorial arrangements, do you speak of equity in its administrative form, or in any other way in which rights are enforced?—You may have some fusion perhaps of equity and common law, but if you were to be taking accounts, &c., that would occupy considerable time, and probably be very irregular in number and amount. Having been a common lawyer all my life, I do not feel any great desire to undertake an equitable jurisdiction.

1738. Do you see any objection to the bankruptcy business to a limited amount going to the County Courts?—The amount is no test of the difficulty in bankruptcy; on the contrary, I must repeat that as far as my experience has gone, the smaller cases were often the most troublesome.

1739. Would it be desirable to give jurisdiction to the County Courts in criminal matters now disposed of at Quarter Sessions?—I think not. You would lose much of the moral effect of publicity and example, so far as the public are concerned; for although the County Court judge may be very competent to administer the criminal law, I think it would be hardly right to displace the Quarter Sessions, which embarks the public more largely in the administration of justice, which I think very desirable. I think that making the County Court judge a compulsory chairman of Quarter Sessions would have a bad effect. The probability is that he would be sitting there isolated, without having any of the country gentlemen about him, which would be objectionable. I think he would very often be elected chairman if the matter were let alone. I therefore think it would be best to leave the criminal jurisdiction alone, and leave the Quarter Sessions as at present. Magistrates, I believe, are not disinclined to avail themselves of the assistance of the County Court judges, but I consider would not like to have them forced upon them.

1740. Would it be desirable to transfer to the County Courts the duty of revising the the lists of voters?—Certainly not. Generally speaking, the judges appoint barristers to revise districts with which they are not personally connected, which, I think, is more desirable than to have a permanent revisor, and that a judge resident in the district.

1741. Do you think it desirable that any political duty should be cast upon the County Court judges?—Clearly not. I think you should steer clear of any political duty. I think it is not proper that the public should have any plausible ground for suspicion. A judge should be clear from suspicion, however groundless.

1742. In point of policy, is it desirable to make more changes than are indispensably necessary in the practice of the court?—I should say, let it alone as much as you possibly can; simplicity is the great object. Above all, do not encourage any niceties in position, or introduce subjects which involve technical difficulties.

Adjourned.

REPORT

OF

THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE

ARRANGEMENTS IN THE INNS OF COURT AND INNS OF CHANCERY,

FOR PROMOTING THE

STUDY OF THE LAW AND JURISPRUDENCE;

TOGETHER WITH

APPENDICES.

THE REFORM CLUB

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CONTENTS.

	Page.
COMMISSION - - - - - - - - - - - -	3
REPORT - - - - - - - - - - - - -	5
PROCEEDINGS OF THE COMMISSIONERS - - - - -	21
APPENDIX A.—MINUTES OF EVIDENCE - - - - - -	33
„ B.—SUGGESTIONS - - - - - - - -	147
INDEX - - - - - - - - - - - -	301

COMMISSION.

VICTORIA R.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith: To Our Trusty and Well-beloved Sir William Page Wood, a Vice-Chancellor, Our Trusty and Well-beloved Sir John Taylor Coleridge, One of the Justices of Our Court of Queen's Bench, Our Right Trusty and Well-beloved Councillor Joseph Napier, Our Trusty and Well-beloved Sir Alexander James Edmund Cockburn, Knight, Our Attorney General, Sir Richard Bethell, Knight, Our Solicitor General, Sir Thomas Erskine Perry, Knight, John George Shaw Lefevre, Esquire, Henry Singer Keating, Esquire, One of Our Counsel Learned in the Law, Thomas Greenwood, Esquire, James Stewart, Esquire, and Germain Lavie, Esquire, Greeting:

Whereas the Knights, Citizens, and Burgesses, and Commissioners of Shires and Burghs in Parliament assembled have presented an humble Address to Us, praying that We would be graciously pleased to appoint a Commission to inquire into the Arrangements in the Inns of Court for Promoting the Study of the Law and Jurisprudence, the Revenues properly applicable and the Means most likely to secure a systematic and sound Education for Students of Law, and provide satisfactory Tests of Fitness for Admission to the Bar.

Know ye, therefore, that We, reposing great Trust and Confidence in your Zeal, Discretion, and Integrity, have authorized and appointed, and by these Presents do authorize and appoint you, the said Sir William Page Wood, Sir John Taylor Coleridge, Joseph Napier, Sir Alexander James Edmund Cockburn, Sir Richard Bethell, Sir Thomas Erskine Perry, John George Shaw Lefevre, Henry Singer Keating, Thomas Greenwood, James Stewart, and Germain Lavie, to make diligent and full Inquiry into and Report upon the Arrangements of the Inns of Court, and also those of the Inns of Chancery, for Promoting the Study of the Law and Jurisprudence, the Revenues properly applicable to that Purpose, and the Means most likely to secure a systematic and sound Education of Students of Law and provide satisfactory Tests of Fitness for Admission to the Bar.

And for the better discovery of the Truth in the Premises, We do by these Presents give and grant unto you or any Five or more of you full Power and Authority to call before you or any Five or more of you such and so many of the Officers and Clerks of the said Inns of Court and Inns of Chancery, and all such other Persons, as you shall judge necessary, by whom you may be informed of the Truth in the Premises, and to inquire of the Premises by all other lawful Ways and Means whatsoever.

And We do hereby give and grant unto you or any Five or more of you full Power and Authority to cause all or any of the Officers and Clerks of any of the said Inns of Court and Inns of Chancery to bring and produce before you or any Five or more of you all Rolls, Records, Orders, Books, Papers, or other Writings belonging to any of the said Inns of Court and Inns of Chancery, or to any of the Officers within the same.

And Our further Will and Pleasure is, that you do as soon as conveniently may be after the Date of this Our Commission (using all Diligence) certify to Us in Our Court of Chancery under the Hands and Seals of you or any Five or more of you what you shall have done in the Premises.

And We do further will and command this Our Commission shall continue in full force and virtue, and that Our said Commissioners or any Five or more of you shall and may from Time to Time proceed in the Execution thereof, and of every Matter and Thing therein contained, although the same be not continued from Time to Time by Adjournment.

And for your Assistance in the due Execution of this Our Commission, We have made choice of our trusty and well-beloved Julius Airey, Esquire, to be Secretary to this Our Commission and to attend you, whose Services and Assistance We require you to use from Time to Time as occasion shall require.

Given at Our Court at St. James's, the Fifth day of May 1854, in the Seventeenth Year of Our Reign.

By Her Majesty's Command,
(Signed) PALMERSTON.

Commission appointing Commissioners to inquire into the Arrangements in the Inns of Court and Inns of Chancery for Promoting the Study of the Law and Jurisprudence.

REPORT.

May it please Your Majesty,

We Your Majesty's Commissioners appointed to inquire into the arrangements in the Inns of Court for promoting the Study of the Law and Jurisprudence, the Revenues properly applicable, and the means most likely to secure a systematic and sound education for Students of Law, and provide satisfactory Tests of fitness for Admission to the Bar, humbly offer to Your Majesty the following Report.

Your Majesty's Commissioners commenced their Inquiry by ascertaining the revenues applicable to the promotion of the Study of the Law and Jurisprudence.

In the prosecution of this portion of their Inquiry, Your Commissioners desire to state that they have received every assistance from the several Treasurers, Principals, Sub-Treasurers, Stewards, and other Officers of the different Inns of Court and of Chancery. These gentlemen most readily attended and gave Evidence, supplied detailed Returns and full Tabular Statements (which will be found in the Appendix), and cheerfully furnished all the information which was required of them.

Sir Fitz-Roy Kelly, Q. C. M.P., Ev. 1.
Whateley, Q.C. Ev. 184.
Whitehurst, Q.C. Ev. 435
Whitmarsh, Q.C. Ev. 582
Tyrrell, Ev. 661.
Jackson, Ev. 721.
Gregory, Ev. 789.
Thorndike, Ev. 868.
Hunt, Ev. 958.
Doyle, Ev. 42.
Bryant, Ev. 261.
Eldred, Ev. 560.
Boswood, Ev. 658; and Tables, Returns, &c. in the Appendix.

With regard to the Inns of Chancery, we do not find that there exist any means of rendering their funds available to the promotion of the study of the Law. These Inns have in some instances become private property, and in others are heavily indebted, whilst in no instance have we been able to trace such an appropriation of the funds as to fix upon the Inns a legal liability to contribution to any general Professional purpose. The full details upon this subject will be found in the evidence of the different Treasurers, Principals, and other Officers of those Inns, and in the written Statements received from them and printed in the Appendix; but we do not think it necessary or useful further to notice these Inns in our Report.

With regard to the four Inns of Court, namely the Inner and Middle Temples, Lincoln's Inn, and Gray's Inn, it appears that the property now belonging to the Inner and Middle Temples respectively was formerly held by them under the Earl of Lancaster, the Hospitallers of St. John, and the Crown successively, at a rent—probably fee-farm—of 10*l.* for each Society from the year 1315 (temp. Edward II.), to the reign of James I., from whom they afterwards accepted a Charter, by which the same property was granted to the two Societies at the same rent, which was afterwards purchased by them from the Crown about the year 1673. This Charter reciting "that the Inns of the Inner "and Middle Temple, London, being two out of those four Colleges the most "famous of all Europe," were dedicated to the study of the Law, further contained the following provision, "which said Inns, Messuages, &c., for ourselves, "our heirs and successors, we strictly command shall serve for the entertain- "ment and education of the Students and Professors of the Laws aforesaid "residing in the same Inns for ever."

Whateley, Q. C. Ev. 186 194.
Whitehurst, Q. C. Ev. 456 459, and the Charter in the Appendix. 207.

The earliest muniments of title of Lincoln's Inn and Gray's Inn afford no evidence of any Grant from the Crown; and in fact the property of these Inns appears to have been acquired by purchase made by the Members of the Inn, nor is there a trace of its being held upon any Trust.

None of the Inns are Corporate Bodies, they are merely voluntary Societies, and a great part of their income is still derived from the contributions of the members.

We conceive that as regards the Temples a direct Trust arises by the acceptance of the Grant made by James I.; and in justice to the Benchers, who form the governing body of each Inn of Court, we are bound to observe, that there is

every disposition on their part to render the funds of the Societies available for the purpose of Education of the Students, whether such trust exist or not.

And we can state with confidence of all the four Inns, not only that we have found no trace of the misapplication of these funds to the personal advantage of individual Benchers, but, on the contrary, we recognize creditable instances of disinterestedness and public spirit displayed in the relinquishment of considerable fees heretofore payable to Benchers holding offices in the Inns.

In investigating, however, the subject of the application of these funds to the promotion of Legal Education, it became necessary that we should make ourselves acquainted with the existing resources of the Inns of Court, and with the mode in which they are at present applied.

From the accounts supplied, and the explanations furnished to us by the Treasurers and Sub-Treasurers of the several Inns of Court, we have made out a classified comparative Statement of the Income and Expenditure of the four Inns of Court; and we have subjoined a Table of the Income and Expenditure of each Inn for the year 1854, and, having compared it with the average Income and Expenditure of the last three years, find that, subject to slight alterations, it sufficiently represents such average. The income of the Middle Temple has fallen off to the extent of 2,476*l.* 19*s.* 11*d.* below the average of the last three years; and to obtain a fair average of the income of Gray's Inn, that should be augmented by adding to the amount of 8,343*l.* 4*s.* 8*d.* one seventh of the fines received by that Inn every seventh year for the renewal of Leases, which on an average of the last seven years may be taken to amount to 773*l.*

INCOME.

	Inner Temple for the Year 1854.	Middle Temple. ditto.	Lincoln's Inn, ditto.	Gray's Inn, ditto.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Rents	15,227 0 3	5,628 13 9	9,942 14 3	3,635 0 11
Dividends		1,644 19 7		
Sundries		44 3 11	20 0 0	1,652 16 6
Payments from Members	5,941 15 9	2,874 13 4½	8,279 18 0	3,055 7 3
Total	21,168 16 0	10,192 10 7½	18,242 12 3	8,343 4 8

OUTGOINGS.

Repairs, extra Works, and Insurance	3,416 11 5	1,829 3 2	1,326 3 9	731 8 11
Rates, Taxes, Watching, Lighting, Garden, &c.	2,029 12 3	1,640 17 10	1,573 16 7	2,307 5 9
Library—Expenses	969 13 10	492 13 9	550 0 4	110 4 6
Chapel—Expenses	740 14 5	766 9 0	101 15 0	721 10 7
Hall, Kitchen, Common Room, including Wine } Expenses	4,248 0 2	3,310 6 11	5,303 18 9	1,925 19 3
Establishment generally } Expenses	1,933 3 6	1,090 0 0	3,625 2 8	1,771 0 3
Pensions and Gratuities	781 5 0	260 0 0	223 13 0	
Miscellaneous	1,115 13 3	801 18 1	286 7 0	1,150 0 0
Annuities	710 7 0			
Interest of Debt			1,354 11 1	
Total	15,945 0 10	10,191 13 9	14,345 8 2	8,717 9 3

(These accounts will be found more in detail in the Appendix,)

The apparently large amounts of rents received by Lincoln's Inn and the Inner Temple, and of Rents and Dividends received by the Middle Temple, might lead to the formation of an exaggerated estimate of the resources derivable from the property of these bodies. The necessary outgoings, however, incidental to Property of this peculiar character are very large, and leave but a limited nett Income to the Inns of Court. In the case of Lincoln's Inn, although the rents and incidental receipts from their property have for the last year, 1854, amounted to the sum of 18,242*l.* 12*s.* 3*d.*,

yet it must be borne in mind that the Inn is encumbered with a debt amounting at present to 40,000*l.*, incurred in respect of erecting a new Hall and Library. If we deduct also the expenditure for Repairs, Insurance, Rates, Taxes, Watching, Lighting, the Hall, the Salaries of the Establishment (exclusive of the Chapel, and Library), and the interest of the debt, the remainder of the Income of their property only amounted to 4,548*l.* 19*s.* 5*d.*, whilst the expenses of the Chapel and Library amounted to 651*l.* 15*s.* 4*d.* This Inn provides Courts for the Lord Chancellor and the three Vice-Chancellors gratuitously, and a Court for the Lords Justices at a small rent. The sittings of these Courts at Lincoln's Inn, no doubt, adds considerably to the value of the property there.

In like manner, in the case of the Middle Temple, although the Rents and Dividends, &c. amounted to 10,192*l.* 10*s.* 7½*d.*, yet the outgoings for Repairs, Insurance, Rates, Taxes, &c., and Establishment, came to 8,932*l.* 6*s.*, leaving a remainder of 1,259*l.* 2*s.* 9*d.*; which is expended on the Chapel and Library. Moreover, a very heavy demand will shortly arise, in consequence of the great age and consequent dilapidation of many portions of their buildings.

The Inner Temple is less unfavourably circumstanced. The large rental of 15,227*l.* 0*s.* 3*d.*, with the payments from Members amounting to 5,941*l.* 15*s.* 9*d.*, after deducting for Repairs, and for Rates, Taxes, Watching, Lighting, Establishment, and for Annuities chargeable on the property, leaves still a surplus of 6,934*l.* 3*s.* 5*d.*, and the Chapel and Library expenses do not amount to 1,800*l.*; nevertheless the Repairs are annually very heavy, the Society has only recently paid off a large building debt, and ere long a considerable outlay will be again required for rebuilding part of the property. The property of Gray's Inn is far less than that of the other Inns of Court; and it is not probable that any considerable amount of surplus income can be derived from that source beyond their present contribution to the funds provided for the Readers as after mentioned in our Report.

It is impossible not to feel some disappointment that such a large amount of gross revenue as arises from the other three Inns of Court should leave so small an available nett revenue; and, having regard to the great value of the site of these Institutions, a doubt arises whether some mode might not be devised of rendering their property more productive without departing from the purposes for which these Societies were formed.

We may observe that the Chambers in some instances are held by private individuals for life, with a power of assigning them to other parties on payment of a small fine to the Inn. The aggregate value of the respective interests of the lessor and lessee, in such cases, is always less than the value of the property when vested wholly in the one or the other.

It might be possible also to aid the revenues of the Inner and Middle Temples and Gray's Inn by a prospective modification of the arrangement under which the Benchers pay a very large fee upon Admission and acquire in turn a life interest in a set of Chambers. This regulation by which a certain number of Chambers is appropriated to the use of Benchers is of very ancient date, and there is no record of the precise origin of the practice; it yet appears that the number of Chambers now appropriated in that manner is the same as in the reign of Elizabeth; nor does the number appear ever to have been increased; but it acts unequally on Benchers of different ages, some of whom never arrive at this advantage. It is, perhaps, not clear that any serious loss has arisen from the difference between the Rents of the Chambers and the Income derived from the payment of Fees on Admission; and even if such were the case it might not be regarded as an unreasonable privilege to be awarded to those who have long contributed by annual payments to the support of the Inn. But on the whole, we do not conceive that the arrangement is satisfactory: the advantage, if any, to any particular Bencher being a matter of chance.

The other source of the Income of the Inns of Court is, the fees payable by their respective Members.

The annual and special payments demanded from the Members of the respective Inns differ materially in nature and amount, but, after deducting the Stamp Duties, they cannot be regarded as seriously burdensome on the Student, except where his means are very limited.

They will be found in detail in the Appendix, but, for convenience, we subjoin here a comparative statement of the principal fees.

Students' Fees, Admission.

Inner Temple.	Middle Temple.	Lincoln's Inn.	Gray's Inn.
£ s. d.	£ s. d.	£ s. d.	£ s. d.
10 5 2	7 10 0	5 2 10	6 1 3
	2 10 0 Library.		1 2 6
			1 2 6

Periodical Payment by Students keeping Terms.

Inner Temple.	Middle Temple.	Lincoln's Inn.	Gray's Inn.
£ s. d.	£ s. d.	£ s. d.	£ s. d.
4 5 0 for Dinners for four Terms, and the Student is entitled to dine six days per Term.	4 4 0 per annum.	Commons 5 16 0 per ann.	16 16 0 for twelve Terms.
0 16 4 Pensions and Preacher's duties charged to those who do not dine.	1 0 0 do.	Chapel, &c. 0 15 4 do.	3 0 0 Preacher's roll.
		Gowns 0 6 0 do.	3 12 6 Exercises.

Call to the Bar, exclusive of Stamp.

Inner Temple.	Middle Temple.	Lincoln's Inn.	Gray's Inn.
£ s. d.	£ s. d.	£ s. d.	£ s. d.
32 0 6	37 10 0	21 4 6	21 16 4

Call to the Bench.

Inner Temple.	Middle Temple.	Lincoln's Inn.	Gray's Inn.
£ s. d.	£ s. d.	£ s. d.	£ s. d.
210 0 0; or,	250 0 0	26 6 0	150 0 0
315 0 0 (if Silk Gown.)	331 0 0 if Silk.		

Annual Payment by Barristers.

Inner Temple.	Middle Temple.	Lincoln's Inn.	Gray's Inn.
£ s. d.	£ s. d.	£ s. d.	£ s. d.
0 19 8	1 0 0	3 15 10	1 3 4

The funds thus collected from the Members of the Inns of Court, and the nett Income arising from their property, are expended mainly on five objects, namely,—

The Establishment,
The Chapel,
The Library,
The Hall and the dinners therein,
The contribution to educational purposes superintended by the Council of Legal Education, more fully referred to in the subsequent part of our Report.

We have already adverted to the expenditure on the Chapel and Library. That incurred in respect of the former may possibly admit of revision and reduction.

The expenditure on the Hall Dinners, &c., appears to call for further observation.

We believe that considerable advantage might be made to accrue to the Profession generally, and especially to the Students, from their dining together not unfrequently in Hall. It has become all the more important to provide opportunities for this social intercourse, since, owing to a change in the habits of the times, the Members of the Inns of Court have to a great degree ceased to reside in their precincts or vicinity. The Barristers also of the Common Law and Equity Courts no longer meet at Westminster Hall.

The existing arrangements for keeping Terms, by dining in Hall a certain number of times in each Term, and the payment by the Members of the Inns of Court of a fixed sum for a definite number of dinners, whether they partake of them or not, creates to some extent an obligation and inducement to dine in Hall.

The result we have before us in tables, showing the number of Students, Barristers, and Benchers who have dined in the several Halls in 1854.

	Benchers.	Barristers.	Students.	Total.
Inner Temple, 1854 - -	854	1,783	3,150	5,865
Middle Temple, 1854 - - -	93	372	355	820
Lincoln's Inn, 1854 - -	824	5,227	7,797	13,848
Gray's Inn, 1854 - - -	712	1,168	1,325	3,205

The expenses incidental to the Halls and Dinners, including the establishment requisite, and the expenses of the Parliament Chamber for the year 1854, were

For Inner Temple - - -	£4,248	0	2
For Middle Temple - - -	3,310	6	11
For Lincoln's Inn - - -	5,303	18	9
For Gray's Inn - - -	1,925	19	3

We think it right to draw attention to the total number of Students dining in the several Halls—under the present system—and to the expenditure above stated on the Halls, Kitchens, and Parliament Chambers, and likewise to the great difference which exists between the numbers who dine at the several Inns as compared with the expenditure on these objects; but we feel assured that when these statements come under the consideration of the governing bodies of the Inns they will make any modifications of the existing arrangements which may be calculated to render them more efficient towards the end in view, that is to say, promoting the association of the Students; and that, subject to this, any savings will be applied towards the purposes of Education. The Benchers of Lincoln's Inn some years ago revised and considerably reduced this head of expenditure. Indeed this subject appears to have engaged the attention of the Benchers of the Inner Temple before the appointment of the present Commission, and considerable reductions in this branch of their expenditure seem to have been resolved upon already. Bryant, Ev. 1692.

The actual surplus of Income and Expenditure of Lincoln's Inn and the Temples for the year 1854, is as follows:—

Inner Temple, 1854 - - -	£5,223	15	2
Middle Temple, 1854 - - -	1	1	10½
Lincoln's Inn, 1854 - - -	3,897	4	1
Gray's Inn, in 1854 the expenditure exceeded the income by the sum of -	374	4	7

With respect to Lincoln's Inn, that surplus is applied in the first instance to payment of annual instalments of 1,500*l.* of their debt, and will continually increase until that debt is paid off. Moreover, the falling-in of the Leases of Stone Buildings, which will eventually take place, will be an important addition to the revenues of that Society. On the other hand, the condition of the old buildings indicates the probability and necessity of a considerable outlay becoming necessary for repairs from time to time, which may occasionally exceed the amount above stated for last year.

Upon the whole, we are under no apprehension as to any serious falling-off in the surplus Incomes of Lincoln's Inn and the Inner Temple.

With respect to the Middle Temple, we have already adverted to the possibility of large outgoings being necessary for repairing the older buildings of that Inn; and there is, therefore, little probability of a surplus arising in respect of the annual resources of that Society.

As regards Gray's Inn, we do no think it probable that any considerable surplus Income can be anticipated.

We deem it unnecessary to pursue this subject further, for if in consequence of any falling-off in the Income of the Inns of Court they should find themselves unable to contribute to Legal Education more than their present limited contributions, the requisite resources for carrying into effect the plan of Education suggested in the subsequent part of our Report might be obtained by a moderate additional fee on the Students, which, as directly applicable to the promotion of their education, could not be objected to.

II. With reference to the mode in which the study of the Law can be best promoted, Your Commissioners have directed their attention,

Firstly, To the present method of conducting Legal Education in this country;

Secondly, To the systems of Legal Education pursued in Scotland, in the principal States of Europe, and in the United States of America;

Thirdly, To the improvements which may be made in our own system.

Upon these several points we have examined witnesses, and we will briefly state the result of the evidence before submitting our own suggestions as to the course to be pursued for the future.

1. All that is at present required of a person wishing to become a Student of the Law in England, with the view of being ultimately called to the Bar, is that he become a Member of one of the four Inns of Court, which is effected by making a formal application for that purpose, merely stating to the authorities of such Inn who and what he is, with a certificate of his respectability, signed by two Barristers, attached to it; that he keep twelve Terms, by dining a certain number of times in the Hall; and that he attend during one year the Lectures of two of the Readers appointed by the Council of Legal Education, or at his option submit to a public Examination, which is compulsory only upon those who do not attend the Lectures. The details of these arrangements we have given in a subsequent part of our Report.

Letter from Patrick Fraser, Esq. to the Right Hon. Jos. Napier, Q. C., M.P., &c. in the Minutes, Extract from Report of the Committee of the Faculty of Advocates on the Qualification of Intrants. Edinburgh, 1854, n Appendix. p. 266.

2. In Scotland, by the existing regulations, three qualifications are at present indispensable to the admission of "Intrants" or Students, into the Faculty of Law. It is required of every candidate that he give evidence of general scholarship, that he pass two Examinations upon the Civil and the Scotch Laws, and lastly that he prepare a Latin Thesis upon a title of the Pandects. This system, however, being deemed insufficient, the Faculty of Advocates at Edinburgh have lately made a Report upon the subject, recommending a much more strict and comprehensive course of Legal study, with Examinations both in general knowledge and in Law.

See Letter from M. Algernon Jones and Programme des Cours de la Faculté de Droit, 1854–1855 in Appendix. p. 270.

In France, the Student must first obtain the diploma of "Bachelier-ès-Lettres" at certain public Schools, and then he presents himself at the Ecole de Droit, is inscribed as a pupil, and follows the Courses of different Professors for three years, attending Lectures on the Roman Law, on the Code Napoléon, on the study of Law generally, on Criminal Legislation, on Civil and Criminal Procedure, on Criminal Law and Penal Legislation, on Administrative Law, on the Rights of Nations, and on the History of Roman and of French Law, with Conferences on the Pandects. He has further to write Theses on the Civil Law, the Roman Law, Criminal and Commercial Law; and having passed all the Examinations on these several subjects, at the end of the third year he receives the Diploma of "Licencié en Droit," and is entitled to be sworn before the Court, and thereupon he becomes an Avocat.

A fourth year's continuance, however, at the Ecole de Droit, attendance at Lectures, submission to Examinations, and the composition of a Thesis, are requisite to obtain the degree of Doctor of Laws, which is necessary for those who are desirous of becoming Professors in the Faculties.

Mr. Bach, Ev. 1233–1300.
Mr. Greenwood's Report, Appendix p. 272.

Throughout Germany every appointment in the Law, from that of Notary-publick to the Judicial Bench, is in the hands of Government, under the patronage of the Minister of Publick Justice; and the training necessary to qualify the candidates for such offices is strictly the subject of Government regulation.

That training begins at some Gymnasium or State School, where the youth intended for the Law are instructed in Classical and General Literature; and here they acquire all the knowledge of these branches of education they are ever likely to obtain.

From the Gymnasium or High School, the young Student of Law is trans-

ferred to some University by certificate of competent attainment in those preliminary studies. At the University his preparation for the profession of the Law may be properly said to begin. These studies consume three years of his time, and comprise attendance upon Lectures on General Law (Encyclopædia of Law), the Institutes of Justinian, the Pandects, the Common Law of Germany, Feudal Law, History of Law, and Criminal Law.

At the close of his University career, he presents himself to the Judges of some one of the Courts of Law, bringing with him testimonials of due attendance upon Lectures and good moral conduct, and applies for examination as an *Auscultator, or Hearer of Law.* If upon such Examination his attainments in the subjects of University study prove sufficient, he is admitted, as Auscultator, to the practical study of the Law under the Judges of the Court. In this capacity he takes notes, makes abstracts of proceedings, draws up reports, and acts in many respects as Clerk or Assistant to the Judges.

After spending two years, or even more, in this capacity, but without official function or pay, he applies to be examined for his advancement to the higher preparatory station, namely, that of *Referendarius.* If found competent, he enters upon a more direct participation in the business of the Court, though as yet under the strict superintendence of the Judges, and still without recognized function or pay. At this stage, however, he is competent to take upon him the duties of a Notary or Advocate; but if he aspires to the judicial dignity, he has to undergo a third and last Examination of a much more general and searching nature, touching upon all the subjects of previous study, and testing his power of applying them in practice. If he succeed in satisfying the Examiners,—no easy task,—he is named *Assessor* to some Court of the First Instance; yet still without pay or emolument, until the Minister of Justice shall find an opportunity of transferring him to the Bench.

All these studies usually occupy seven or eight years of the Student's life; and it is not till he has passed through these successive trials, and is fortunate enough to find a vacant place at the Bar or on the Bench, that he enters upon the profitable exercise of the Profession.

In the Kingdom of the Two Sicilies, any one intended for the Profession of the Law, after passing his Examination in Belles Lettres, must undergo a Course of Examinations before a Board of the Professors of Law in one of the Universities of the Kingdom. These Examinations are in the following subjects:— See Letter from Signor J. P. Lacaita in Appendix. p. 282.

1. Jus Naturæ and Gentium.
2. Civil Law.
3. Neapolitan Civil Law.
4. Neapolitan Criminal Law.
5. Commercial Law.

The Examination in Canon Law is optional.

The Student, having passed these several Examinations in a satisfactory manner, obtains a Diploma called the Laurea, which enables him to practise in all the Courts of the Kingdom. This preparatory Course takes from four to five years.

In the United States of America, where seemingly the greatest latitude exists as to Admission to the Bar, though generally speaking no attendance at Schools, Colleges, or Lectures, nor any particular Course of study is absolutely required, yet an Examination as to professional knowledge must be submitted to before a person is allowed to practise. Horace Binney, Esq., Ev. 359, 452. General Thomas, Ev. 995,— 1089.

3. With reference to improvements in the study of the Law in this country, Your Majesty's Commissioners have specially directed their attention to two questions; 1. Whether or not an Examination should be required previous to Admission as a Student at an Inn of Court; and 2. Whether there should be an Examination before the Call to the Bar.

We caused questions calculated to elicit the opinion of the Profession upon this subject to be largely circulated. Copies of such questions were sent to all Her Majesty's Judges in England, of the Courts both of Law and Equity, and to other distinguished members of the Profession, and the answers received will be found in the Appendix. Vice Chancellor Stuart's Letter, Appendix. p. 261 Mr. Baron Martin's Replies, Appendix. p. 262.

We have also examined all the present Readers,—Mr. J. G. Phillimore, Q.C., M.P., Dr. Maine, Mr. Reginald Walpole, Mr. Herbert Broom, and Mr. William

Lloyd Birkbeck,—and these gentlemen, though differing as to the propriety of imposing an Examination upon candidates for Admission to the Inns of Court, are unanimous in recommending the imposition of a compulsory Examination previous to the Call to the Bar.

We have further examined numerous other gentlemen of eminence, both Barristers and Solicitors, and have found among them considerable difference of opinion upon this question. With reference to the first of these proposed Examinations, several of the Readers and other witnesses have expressed an opinion that every Student of Law ought to have received a liberal education. They therefore consider an Examination of the candidate before he is admitted to be a Member of an Inn of Court, with a view to ensure his possessing that amount of Classical knowledge which such an education would naturally confer, would be very fit and advantageous, and this, they think, would not deter any from applying for Admission, except those who have not been so educated.

Maine, Ev. 1141.
Sir FitzRoy Kelly, Q.C. M.P., Ev. 5, 17, 18.
Whateley, Q.C., Ev. 328, 329, 330, 332, 340, 341, 342, 343, 344.
Maine, Ev. 1141.
Broom, Ev. 1185.
Lowe, Ev. 1593, 1614.
Whateley, Q.C., Ev. 329, 344.

Your Commissioners beg further to state that a few years since, at the Inner Temple, submission to such a preliminary Examination was required, and is stated to have been found most beneficial.

Whateley, Q.C., Ev. 326, 328.

Others of the Readers and witnesses, however, deny the necessity, and doubt even the utility of any Examination preparatory to Admission as a Student; and one gentleman thinks its adoption would have the effect of discouraging men who might afterwards become learned and useful Members of the Bar.

Whitehurst, Q.C., Ev. 553.
Walpole, Ev. 1371.
Phillimore, Q.C., M.P., Ev. 485, 1511, 1512, 1514, 1515, 1516, 1519, 1521, 1523.

One of the witnesses also, though very doubtful upon this subject, thinks it would be a serious drawback to those who propose to enter as Students; and one of the Readers is of opinion that such Examination should at all events be dispensed with in the case of those who have obtained Degrees at Universities.

Cairns, Ev. 1650, 1661.
Broom, Ev. 1213.

Your Commissioners would here add that, with regard to the education of Articled Clerks,—young men preparing themselves for the profession of Solicitors and Attornies-at-Law,—the gentlemen who have been questioned on this subject are uniformly of opinion that they should be obliged to undergo an Examination as to capability, fitness, and general knowledge before being apprenticed or articled.

Tyrrell, Ev. 710, 711, 712, 713, 719.
Barnes, Ev. 1579.

As regards a compulsory Examination previous to the Call to the Bar, Your Commissioners have also found considerable diversity of opinion.

Maine, Ev. 1107, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1131, 1140, 1142, 1158.
Broom, Ev. 1179, 1180, 1229, 1230.
Birkbeck, Ev. 1309, 1312, 1313, 1314.
Walpole, Ev. 1363, 1364.
Phillimore, Q.C., M.P., Ev. 1479, 1497, 1498, 1527.
Pulling, Ev. 1458.
Lowe, Ev. 1593, 1596, 1597, 1598, 1599, 1600, 1618.
Hastings, Ev. 1628, 1629.
Cairns, Ev. 1642, 1653, 1654, 1657, 1660.

The present Readers, as before mentioned, are all decidedly in favour of it. They, and other gentlemen who advocate this, consider the want of it to be the chief defect of the present system,—that it is the best security for industry,—that the full benefit of the Lectures will not be derived by any Student unless he knows that he is also to undergo an Examination upon the subject of them, and that it would secure at all events, his having the necessary information before he is called.

It is suggested, however, that this Examination should not be severe, and it is thought that, if properly regulated, it would not repel any great number from coming to the Bar.

All the Readers further agree in recommending a separate Examination for Honours previous to Admission to the Bar.

Several others of the witnesses nevertheless doubt the expediency of any Examination for the Call to the Bar, conceiving that it would lead to the acquisition of only a very limited and superficial knowledge, and would be of no practical use; and that while it might discourage men of retired or reserved habits, who, though they might not prove active men in Court, might make valuable Chamber Counsel, it would also deter country gentlemen and others who wished to be called to the Bar, with a view merely to acquire such a status and so much professional knowledge as would be useful to them as Magistrates, Politicians, Legislators, and Statesmen; and this effect in the opinion of these witnesses would be a serious evil.

Birkbeck, Ev. 1320, 1321, 1322.
Broom, Ev. 1180.
Maine, Ev. 1158, ss. 6, 8.
Phillimore, Q.C., M.P., Ev. 1142, 1197, 1498, 1527.
Walpole, Ev. 1365, 1366, 1376.
Vice Chancellor Stuart's Letter, Appendix. p. 261.
Mr. Baron Martin's Replies, Appendix. p. 262.
Sir FitzRoy Kelly, Q.C. M.P., Ev. 5, 8, 24, 25, 26, 39.
Whateley, Q.C., Ev. 333, 334.
Whitehurst, Q.C., Ev. 521, 553, 554, 555.
Whitmarsh, Q.C., Ev. 636.
Lewis, Ev. 1419, 1420, 1421, 1423, 1425.
Lowe, Ev. 1601.
Cairns, Ev. 1661.
Broom, Ev. 1180.

Some also of those gentlemen who approve of an Examination as to Legal knowledge previous to the Call to the Bar are adverse to that suggested for Honours. It is to be observed that an Examination for Honours must ex necessitate be voluntary as distinguished from that required merely to entitle to a Certificate.

We have carefully weighed and deliberated upon the Evidence that has been thus brought before us, and before we state the conclusions at which we have arrived will briefly state our views as to *the objects* to be had in view in providing for the Professional education of Law Students of the Inns of Court.

Two considerations naturally offer themselves:—1. The duty which the several Societies to whom the power of calling Students to the Bar has been confided owe to the Student. 2. The duty which they owe to the community whilst conferring on certain selected individuals a peculiar position and attendant privileges.

1. As regards the Student, he is compelled to have recourse to the Society before he can practise at the Bar. He is required to make payments which, though inconsiderable in amount as regards the wealthier classes, are nevertheless onerous to others who are less favoured. He is compelled to remain a definite number of years without liberty to practise, and during those years is not permitted to carry on the business of a Solicitor, or any business of a like character. He is clearly therefore entitled to require from the Society some advantage in return for such payments and for his submission to such restrictions, independently of his ultimate Call. If we recur to the earlier history of the Inns of Court, it will be evident that during the period of his studentship he was assisted in his studies by Readers in different branches of the Law, by taking part in *Moots* or Exercises, in which practical dexterity in argument might be acquired; in addition to attendance at the Chambers of a practitioner. This latter part of a Student's education was provided at his own expense; the Readings and Exercises were provided by the Inn. The Student has always contributed to the Library, and to that he has been allowed access under certain regulations.

See Report of Committee on Legal Education sanctioned by an Order of the Inns of Court, Rule 19, Appendix. p. 150.

In 1833 the Inner Temple instituted two Lectureships. Although the Lecturers were eminent men, the attendance became so small that after two years they ceased, until 1847, when the Inner Temple established a Lectureship on Common Law, whilst at the Middle Temple Lectures were delivered upon Jurisprudence and the Civil Law, the attendance of members was not numerous at either Inn, although at the Inner Temple Examinations were held, at which prizes were given by the Society. These Lectureships continued until the year 1851, when the present system was established. In the year 1847, the Society of Gray's Inn established, with very beneficial results, a Course of Lectures, followed by voluntary Examinations in which the Students were classed; and the Lecturer (in one department) also presided over discussions similar to the Moots. In the year 1851, the present Solicitor General caused a general meeting to be convened of the Benchers of the four Inns of Court, with a view to provide for the better instruction of the Students, and the result was the establishment of a Council of Legal Education, consisting of eight Members, two being selected by the Benchers respectively of each of the four Inns of Court, and holding their offices for two years; and the passing of definite Regulations for providing Readers who should give Lectures and hold Private Classes for the better instruction of the Students. The Readers, under the direction of the Council at stated intervals conduct a voluntary Examination of the Students; the attendance at the Lectures being compulsory, unless in the case of those who submit themselves to such voluntary Examination. Public Examinations are held three times a year, and Studentships of Fifty Guineas a year have been founded by the Inns of Court, to be held for three years by the Student on each occasion passing the best Examination; and certain other advantages are offered to those who distinguish themselves in such Examination. We shall hereafter speak more fully of this system, which is all that is at present provided by the Inns of Court for the benefit of the Students.

2. As regards the duty which the Inns of Court owe to the community whilst conferring on individuals the right of practising at the Bar, it will be proper to call attention to the privileges incident to the status of a Barrister. He alone is allowed to plead for others in the Superior Courts of Westminster, and he is not responsible to his Clients for negligence or otherwise. He alone is eligible for numerous appointments of considerable emolument and responsibility in this country, including not only the higher Judicial appointments but also the offices of Recorder, Judge of a County Court, or Commissioner of

Bankruptcy, and Revising Barrister. The Police Magistrates of the Metropolis also are now selected from the Bar. In the Colonies the Judicial appointments open to Barristers only are also numerous.

The Inns of Court being entrusted with the exclusive right of conferring or withholding a position to which such privileges as we have enumerated are incident, the community is surely entitled to require some guarantee—first, for the personal character, and next for the professional qualifications of the individuals called to the Bar. The only security at present possessed by those who employ a Barrister as counsel consists in this, that any defect in the Advocate may lead to the loss of practice. But there is not even such security against the appointment of an unfit person to any of the Judicial offices to which we have referred.

As regards the moral character of the Barrister, considerable attention appears at all times to have been directed by the Societies to the exclusion of persons against whom any grave delinquency can be alleged, from admission to the Society in the first instance, or to the Bar, if it be discovered at a later stage. Farther than this, the Societies possess, and have on recent occasions exercised, the power of "dis-barring," or visiting with other severe penalties, after due inquiry, any person who has properly deserved such reprobation; their decision in this respect being subject to an appeal to the Judges. We are of opinion that these precautions have been generally sufficient to prevent any injurious effect to the community with respect to moral impropriety or misconduct in Barristers.

It may be well worthy of consideration, however, whether greater powers should not be given to the Inns for conducting their inquiries, when proceeding to determine judicially as to the Admission of Students to the Bar or the dis-barring of a Barrister. Great hardship may arise to the party whose conduct is in question for want of any power to compel the attendance of witnesses and production of documents.

But, as regards intellectual qualifications and the professional knowledge of a Barrister, we are of opinion that there is not such security as the community is entitled to require. The Government, who appoint Barristers to the various Judicial posts at home, and in the Colonies, have no available means of testing the capacity or information of the person to be appointed beyond general reputation, or the recommendation of Members of the Profession. With regard to the Colonies, especially, there is frequently considerable difficulty in procuring fit persons for the appointments. Men who have successfully distinguished themselves in England are often unwilling to accept appointments in a Colony, and the selection as Judge or Crown Officer is sometimes necessarily made either from young untried men, or, what is worse, from men who have been tried and have failed. It appears to us a matter of great importance, that none should be appointed to act as Judges whose capacity and acquirements are likely to prove inferior to those of the Counsel or Attornies who may practise before them; and it is no less important to the public interests that the Crown officers should be men of known ability and fully competent to advise the Colonial Government in difficult questions.

Until the recent appointment of the Council of Legal Education, there was no preliminary test whatever of the intellectual capacity or attainments of a Barrister; any person (provided he were not guilty of impropriety of conduct, and complied with some special provisions) might, by simply making certain payments and dining a certain number of Terms in the Hall of one of the four Inns of Court, become a Barrister. The Inner Temple alone, for a short period, had required a preliminary Classical Examination before a Student was admitted to the Inn. This system was considered by the Inn to be highly beneficial, but was discontinued after a few years, by reason of the same course not having been adopted by the other Societies. At present the system pursued is as follows:—

There is no preliminary Examination for the admission of Students. The four Inns of Court have provided five Readers, who receive a salary of Three Hundred Guineas each. Each Inn pays the salary of one Reader, and contributes to the expenses of the fifth or remaining Reader. The Students pay a fee of Five Guineas on Admission to an Inn, which entitles them to attend the Lectures of all the Readers. These Readers deliver Lectures in Constitutional Law and Legal History, Civil Law and Jurisprudence, Common Law, Equity,

and the Law of Real Property, and hold also evening Classes for those who are willing to attend them. The Students pay an additional fee, not exceeding Three Guineas in the whole, for being admitted to these Classes.

No Student can be called to the Bar unless he have attended during one whole year the Lectures of two Readers at least, or have submitted himself to Public Examination; but here all effort to enforce the acquirement of information ceases. In order, however, to encourage a course of study, a voluntary Examination has been instituted, which takes place three times a year; and a Studentship of Fifty guineas a year to be held for three years has been founded by the Inns of Court, which is conferred on the most distinguished Student at each Examination. Three other Students may be selected by the Council of Legal Education as having passed the next best Examination, and to these a Certificate is given, which exempts them from keeping two Terms prior to their Call. Certificates of having satisfactorily passed the Examination are also conferred on such other Students as the Council consider entitled to receive them; and persons desirous of being relieved from attendance at Lectures have the option of passing this voluntary Examination as an alternative.

It will be obvious that no test whatever of the acquirements of those who are to be called to the Bar has been provided by this system, except in the case of those who voluntarily submit themselves to Examination, and who are probably those with regard to whom a test is least required. The attendance on Lectures affords the opportunity of acquiring information, but not a test of its acquisition. Further than this, we may remark, that the voluntary Examination is confined to the subjects on which the Readers deliver Lectures; and, although no Student thoroughly destitute of learning could successfully pass the Examination, yet it appears by the evidence that candidates who have been on the whole sufficiently well informed in purely professional matters to pass the Examination have yet displayed gross ignorance in a subject so nearly connected with it as the Legal History of their country.

We have hitherto considered the question of the education of a Barrister on general principles, and on those grounds alone have come to the conclusion that there ought to be a test both of the general and the Professional knowledge of every candidate for the Bar.

But we are fortified in this conclusion when we look to the course adopted by the other learned Professions, as well as in the subordinate branch of the Law.

The Clergyman, the Physician, the Surgeon, the Apothecary, as well as the Attorney or Solicitor, are all required to pass an Examination before they are permitted to practise. In the Navy and Army, a like Examination of officers is required before they are entitled to their first commission, and also before a Lieutenancy in the one or a Captaincy in the other is attained. In every other country in Europe an educational test is applied to Advocates, either by requiring a Degree in Law at a University, or else by a distinct Professional Examination. In Scotland, the Faculty of Advocates have so recently as in the last year required a Test both of general and Professional knowledge.

In arriving at this conclusion, with respect to the necessity of a test, we desire to be understood as not disparaging or undervaluing the present system of practical study in a Barrister's Chambers, which must be admitted to be very efficient in fitting the Student for the active duties of his Profession; it affords, however, no facilities for the study of the scientific branches of Legal knowledge, including under that term—Constitutional Law and Legal History; and—Civil Law and Jurisprudence.

Some knowledge of these subjects must be useful to the Barrister, not only as an Advocate, but as a Judge; and especially if he should be appointed to any Judicial office in India or in the Colonies. And although, during the ordinary period of preparation for the Bar, it would probably be found impracticable to obtain an entire acquaintance with them without sacrificing objects more immediately pressing, yet there would be time enough to lay the foundation of this knowledge, which might be completed after the Student should have been called to the Bar, and before his time became wholly absorbed by practice. By mastering principles the Student becomes more interested in and obtains a steadier grasp of practical details.

The most convenient method of acquiring knowledge of these subjects is by Lectures, followed by Examination applicable both to the Lectures and to the subjects generally. With respect to the practical branches of the Law; that is to say, Common Law, Equity, and Conveyancing,—although the knowledge of them will for the most part be best acquired in the Chambers of the Barrister or Conveyancer, yet Lectures on the principles of these subjects, combined with private study, afford important assistance to the Student; and the prospect of an Examination in them would be an useful stimulus to pupils studying in Chambers,—a stimulus the more necessary when we have regard to the length of time which elapses between the commencement of study and professional practice. Moreover, the Barrister or Conveyancer having pupils would feel that he had an interest in their success at the Examinations, and would be desirous, even more than at present, of giving systematic instruction in the Law considered as a science.

It cannot be doubted that if a pupil, before going as such to the Chambers of a Barrister, should study, under a Reader, the principles of the branch of Law to which he is about to address himself, he would derive far more advantage from his period of pupilage than if he went there without such previous preparation. Such instruction under a Reader would not necessarily disturb the present system of pupilage in Chambers if the Lectures should be given at convenient times, and if the Examinations should be so regulated as to enable not only those who attend Lectures, but those who diligently attend Chambers, to pass, and to obtain distinctions and prizes. With this view the Questions at Examinations might be so framed as on the one hand to test the knowledge which has been derived by those Students who have attended the Lectures, and on the other hand to test the knowledge of the subject which has been acquired in any other manner.

Some of the witnesses appear to entertain apprehensions lest a compulsory test should tend to exclude from the Bar that class of persons who proceed to it, not with a view to Professional practice, but with the intention of becoming Members of Parliament or Magistrates. We should regret such a result, but we do not share in the apprehensions. It must be admitted that to this class of persons the knowledge of some portions of the science of Law, —especially Constitutional Law and Legal History, Jurisprudence, and International Law; and of some portions of the Professional branches of Law,—as Criminal Law and the Law of Evidence,—would be highly valuable. It is not found that Examinations for Degrees discourage those persons to whom a Degree is of no practical utility in after life from going to the Universities and completing their Course of Education there. And we conceive that the opportunities of obtaining a better education than is at present offered in scientific and practical branches of the Law which may be especially useful to the Legislator or the Magistrate, may not only counteract the possible fear of Examination, but may induce a large number of young men of that class to prepare themselves for the Bar. Those who may be unwilling to submit to any Examination can have little reason to complain if they are not allowed to assume the position of Members of a learned Profession. And we are not prepared to say that either the former system of dining a certain number of days in Hall; or the present additional requirement of sitting a certain number of hours in a Lecture room, should be accepted as sufficient qualifications for that position.

We proceed next to consider the best mode of carrying such a system of instruction as we conceive to be necessary into effect. The expediency will be conceded of having one system common to all the Inns of Court for testing the general knowledge of persons to be admitted as Students, and the Legal knowledge to be required as a condition for the Call to the Bar.

The combined action of the several Inns of Court as one body presents obvious advantages over their separate action,—

1st, in respect of uniformity and justice;

2d, in respect of expense.

It affords also a wider field of competition in the Examinations than would be presented if each Inn of Court were to employ separate Readers in the various branches of knowledge to conduct a separate series of Examinations.

We think, moreover, that considerable advantage would result to the Bar as a Liberal Profession from a better recognized and more definite and permanent combination of the Inns of Court in reference to Legal Education and Examinations than exists at present in respect of the Council of Legal Education, and that the Inns might be united in a University,* still preserving their independence respectively as distinct Societies with respect to their property and internal arrangements.

Such a University might not only regulate the Examinations to which we have adverted, but might likewise confer Degrees in Law.

Except in the Ecclesiastical and Admiralty Courts, Degrees in Law at our Universities are at present little regarded by the Profession. We think, however, that similar distinctions given in London and in public by the great Legal bodies, or by a combination of them, for proved merit, might be of considerable professional value. We are all aware that an industrious and accomplished Barrister is, under the present system, sure of ultimate success. Early opportunities of practice are nevertheless of great value to the Barrister in stimulating his industry, and in the timely development of his talents. Such opportunities might more frequently arise if the Solicitor had any such grounds to justify his selection of a young Barrister as might be afforded by Degrees, or other distinctions granted to Students in respect of their Examinations. Country gentlemen also, who are not desirous of practising as Barristers, may nevertheless be glad to avail themselves of the opportunity of Legal study afforded by such an University.

Barnes & Cookson, Ev. 1581.

From the foregoing considerations, we deem it advisable that there shall be established a preliminary Examination for Admission to the Inns of Court of persons who have not taken a University Degree, and that there shall be Examinations, the passing of which shall be requisite for the Call to the Bar; and that the four Inns of Court shall be united in one University for the purpose of these Examinations, and of conferring Degrees; and we propose the following Heads of a Scheme for that purpose:—

1. That a University be constituted, with a power of conferring Degrees in Law, of which the constituent Members shall be "The Chancellor, Barristers-at-Law, and Masters of Laws."

2. The Chancellor of the University to be elected for life, the electors being all Barristers (including Serjeants) and Masters of Laws.

3. That a Senate, consisting of thirty-two Members, shall be elected in manner following, viz.:—Eight Members shall be elected by each Inn of Court, five of them being Benchers of the Inn and elected by the Benchers, and three of them being Barristers (including Serjeants) of any Inn, but elected by the Barristers (exclusive of the Benchers) of the Inn to which they belong.

4. That one fourth of the Senate shall retire annually, but the retiring Members to be re-eligible.

5. That a Vice-Chancellor shall be elected by the Senate from their own body, and upon his ceasing to be a Member a fresh election shall take place. The Vice-Chancellor shall preside at the Meetings of the Senate, with the privilege of a casting vote. (The details as to convening Meetings, a quorum, and the like, will be provided for in any Charter or Act of Incorporation.)

6. That the Senate and Vice Chancellor shall not receive any emolument, but shall have power to appoint a Treasurer, a Secretary or Registrar, and other proper officers.

7. That the existing arrangements for the payment of the Readers by the Inns of Court be continued, and that the Senate shall from time to time direct the payment of such Fees as they shall think fit by the Students towards the expenses of the University, and shall transmit tables of such Fees to the Inns of Court. And any further Funds that may be requisite shall be provided by the Inns of Court.

* It may be suggested that the word "University" has been commonly applied to a course of general or universal instruction in letters and science; but the word in its earlier import simply implies a corporate body, and, notwithstanding late usage, may not inaptly be applied to a course of instruction in every department of Law.

8. That the Meetings of the Senate be in the Hall of one of the Inns of Court.

9. That the government of the University be in the Chancellor and Senate.

10. That there shall be—

1. A Preliminary Examination of Candidates for Admission as Students at the Inns of Court.
2. An Examination in Law of Students desirous of being called to the Bar or taking a Degree of Master in Laws. That there shall be two of each of such Examinations respectively held every year, the one shortly before Michaelmas Term and the other shortly before Easter Term.

11. That no person shall be examined for Admission as a Student at an Inn of Court unless he shall produce his conditional Admission by the Inn, subject only to his passing such Examination.

12. To pass such preliminary Examination, such persons must possess a competent knowledge of—
English History and Latin.

13. No person shall be admitted as a Student into any Inn of Court unless he shall have passed the Preliminary Examination, or have obtained the degree of a Bachelor of Arts, or Inceptor or Bachelor in Law, at some University within the British Dominions.

14. The subjects for the Examination of Students desirous of being called to the Bar, or of taking a Degree in Laws, shall be divided into two branches consisting of the following subjects:—

First branch:
a. Constitutional Law, and Legal History.
b. Jurisprudence.
c. The Roman Civil Law.

Second branch:
a. Common Law.
b. Equity.
c. The Law of Real Property.

15. That no person shall be called to the Bar unless he shall receive a Certificate from the Senate of having passed a satisfactory Examination in at least one subject in each of the above branches.

16. That Students may present themselves as Candidates for Honours at the Examination in such branches, and if they shall be deemed by the Examiners to have passed a creditable Examination in all the subjects of either branch, they shall be entitled to a Certificate of Honour in respect of such Examination; and if they shall have passed a like Examination in all the subjects of both branches, they shall be entitled to the Degree of Master of Laws. The Senate to make regulations in respect of the classification of the Students for Honours.

17. That at each Examination a Studentship of Fifty Guineas per annum, to be held for four years, be awarded to the Master in Laws who shall have passed the best Examination.

18. That all persons desirous of being called to the Bar, and all Candidates for Honours, other than Candidates for the Studentship, may, as they think fit, pass their Examination in each branch either at the same time or at separate times; but the Candidates for the Studentship must be examined in both branches at the same time.

19. That the Examiners be appointed by the Senate.

20. That Readers be appointed, as at present, by the Inns of Court, the Senate appointing the fifth Reader, now appointed by the Council of Legal Education, with power for each Bench (if it think fit), subject to the approbation of the Senate, or for the Senate, on the joint application of all the Benches of all the Inns, to appoint additional Readers.

21. The Inns of Court not to be compelled to Call to the Bar those who shall have passed an Examination, but to retain their present powers with reference to the calling of Students to the Bar, and the dis-barring of persons after their Call, subject to the appeal to the Judges.

We have not thought it to be within the scope of our Commission to consider whether it would be expedient to associate the Advocates of Doctors Commons with the great body of the Profession who are Members of the Inns of Court, but there would, as it appears to us, be very little difficulty in rendering them constituent Members of the University, if it were thought desirable.

With regard to Serjeants Inn it must be remembered that the Judges are all Members of that Inn, and as they exercise an appellate jurisdiction over the Inns of Court in regard to the Call to the Bar, with which we do not propose to interfere, it does not seem to us desirable to introduce that Inn as part of the University.

We would venture to suggest, in conclusion, that the several Universities of the realm will, in our judgment, co-operate more effectually in advancing Legal Education by a sound and liberal training for the Students intending, afterwards, to enter upon the profession of the Law,—a training limited in respect to that study to general principles,—than by increasing the amount of special instruction which the Inns of Court should properly supply. We feel assured that there is no more important part of the solid preparation for entering upon any of the learned professions than the discipline and the cultivation of an enlightened University Education; and, looking to the increased facility of such preparation, and the probable effect of the improved system in the Inns of Court, which we humbly recommend for their adoption, we anticipate with hope and confidence the maintenance of an educated and enlightened Bar, upon whose integrity, independence, and learning the pure administration of justice, and the security of Civil Society, must, under the blessing of Divine Providence, largely and permanently depend.

Witness our Hands and Seals, this tenth day of August, One thousand eight hundred and fifty-five.

WILLIAM PAGE WOOD.	(L.S.)
JOHN TAYLOR COLERIDGE.	(L.S.)
JOSEPH NAPIER.	(L.S.)
A. E. COCKBURN.	(L.S.)
RICHARD BETHELL.	(L.S.)
E. PERRY.	(L.S.)
JOHN GEORGE SHAW LEFEVRE.	(L.S.)
HENRY S. KEATING.	(L.S.)
THOMAS GREENWOOD.	(L.S.)
GERMAIN LAVIE.	(L.S.)

PROCEEDINGS.

THE MEETINGS of the COMMISSIONERS were held at 32, Abingdon Street, Westminster.

The FIRST MEETING was held on *Thursday*, the 11*th of May* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
The Right Honourable Joseph Napier, M.P., Q.C.
The Solicitor General, M.P.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

The Commission was read.

It was Resolved,—

That the Chairman do communicate with the Chairman of the Council of Legal Education, the Treasurers of the four Inns of Court, and the proper Officers of the Inns of Chancery, and request them to be good enough to furnish to the Commissioners a statement of the existing arrangements of the Inns of Court and of Chancery respectively for promoting the study of the Law and Jurisprudence.

Adjourned till *Monday* next, the 15*th instant.*

The SECOND MEETING was held on *Monday*, the 15*th of May* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
The Right Honourable Joseph Napier, M.P., Q.C.
The Solicitor General, M.P.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Chairman,—

Read the Letter addressed to the Chairman of the Council of Legal Education, and the Circular sent to the Treasurers of Inns of Court and the Officers of the Inns of Chancery, according to his orders, by the Secretary. The Chairman also read a reply to the Circular received from Mr. Thomas Gregory, the Steward of Clement's Inn, by the Secretary.

It was Ordered,—

That the Secretary do procure for the use of the Commissioners copies of the Report of the Dublin University Commission, of Mr. Wyse's Report of the Select Committee on Legal Education, and of the Report of the Oxford University Commission.

Adjourned till *Thursday*, the 8*th of June.*

The THIRD MEETING was held on *Thursday*, the 8*th of June* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
Sir Thomas Erskine Perry, M.P.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

Sir FitzRoy Kelly, Q.C., M.P., Treasurer of Lincoln's Inn, and Mr. Michael Doyle, the Steward of Lincoln's Inn, were severally examined. See Evidence, 1 to 183.

The Chairman,—

Read a Letter from the Solicitor General, explaining his absence from the Meeting.

Letters and replies to the Circulars were received by the Secretary—from the Treasurer of Lincoln's Inn, dated 20th of May 1854; from the Treasurer of the Inner Temple, dated the 29th of May 1854; from the Treasurer of the Middle Temple, dated the 26th of May 1854; from the Treasurer of Gray's Inn, dated the 19th of May 1854; from the Treasurer of New Inn, dated the 17th of May 1854; from the Secretary of Barnard's Inn, dated the 30th of May 1854; from the Principal of Staple Inn, dated 27th of May 1854; from the Receiver of Rents at Furnival's Inn, dated the 13th of May 1854; from Timothy Tyrrell, Esq., of Lyons Inn, dated the 30th of May 1854.

It was Ordered,—

That the Secretary do have the Evidence of Sir FitzRoy Kelly and of Mr. Doyle printed without delay.

It was Ordered,—

That Mr. Whateley, Q.C., the Treasurer of the Inner Temple, be invited to attend and give Evidence at the next Meeting.

Adjourned till *Tuesday* next, the 13*th instant.*

The FOURTH MEETING was held on *Tuesday*, the 13*th of June* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
The Right Honourable Joseph Napier, Q.C., M.P.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

See Ev. 184 to 322. Mr. Whateley, Q.C., Treasurer of the Inner Temple, and Mr. George Bryant, Under Treasurer of the Inner Temple, were examined.

The Chairman,—

Read the replies to the Circulars received by the Secretary from the Principal of Staple Inn, Mr. Tyrrell of Lyons Inn, the Secretary of Barnard's Inn, and the Treasurer of New Inn.

Adjourned till *Thursday* next, the 15*th instant.*

The FIFTH MEETING was held on *Thursday*, the 15*th of June* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
The Right Honourable Joseph Napier, Q.C., M.P.
The Solicitor General, M.P.
Sir Thomas Erskine Perry, M.P.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.

Julius Talbot Airey, Esq.,
Secretary.

See Ev. 323 to 358. Mr. Whateley, Q.C., Treasurer of the Inner Temple, was further examined as to the system of Legal Education.

See Ev. 359 to 452. Mr. Binney, Citizen of the United States, Member of the Bar of Pennsylvania, and practising in the Courts of Philadelphia, was also examined as to the system of Legal Education, and as to the Rules respecting admission to the Bar in the District Courts of the City and the County of Philadelphia.

Adjourned till *Wednesday* next, the 21*st instant.*

The SIXTH MEETING was held on *Wednesday*, the 21*st of June* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
The Attorney General, M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

Mr. Whitehurst, Q.C., Treasurer of the Middle Temple, and Mr. Edward Eldred, Sub-Treasurer of the Middle Temple, were examined. See Ev. 453 to 565.

It was Ordered,—

That the Secretary do write and request the attendance of Mr. Whitmarsh, Treasurer of Gray's Inn, Mr. S. B. Jackson, Principal of New Inn, and Mr. Timothy Tyrrell, of Lyons Inn, to give Evidence before Her Majesty's Commissioners at their next Meeting.

Adjourned till *Tuesday* next, the 27*th instant.*

The SEVENTH MEETING was held on *Tuesday*, the 27*th of June* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Right Honourable Joseph Napier, Q.C., M.P.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq

Julius Talbot Airey, Esq.,
Secretary.

Mr. Whitehurst, Q.C., Treasurer of the Middle Temple, attended to give further Evidence as to the funds, &c. of the Middle Temple. See Ev. 566 to 580.

Mr. Whitmarsh, Q.C., Treasurer of Gray's Inn, was examined. See Ev. 581 to 657.

Mr. Boswood, Under Steward and Chief Clerk of Gray's Inn, produced some Tables as to the Property of the Inn. Ev. 658 to 660. and Appendix. p. 253.

Mr. Timothy Tyrrell, Member or Ancient of Lyons Inn, and Mr. Samuel Browne Jackson, Treasurer of New Inn, were also examined. Ev. 661 to 787.

Adjourned till *Friday* next, the 30*th instant.*

The EIGHTH MEETING was held on *Friday*, the 30*th of June* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
John George Shaw Lefevre, Esq., C.B.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Chairman,—

Read an answer to the Circular of the Commissioners, received by the Secretary, from Mr. Allen, Principal of Clifford's Inn, and also a Letter from Mr. Allen excusing his non-attendance to give evidence before Her Majesty's Commissioners, in obedience to their request.

Mr. Thomas Gregory, Steward of Clement's Inn, Mr. Andrew Snape Thorndike, Principal of Staple Inn, and Mr. Edward Rowland Pickering, of Staple Inn, were examined. Ev. 788 to 956.

Mr. Edward Eldred, Sub-Treasurer of the Middle Temple, attended and delivered in "An Abstract of the Covenants, from an Indenture bearing date the 25th day of October 1745, between the Societies of the Middle Temple and New Inn," "A List of the Officers' Salaries of the Middle Temple," "A Statement of Receipts and Payments of the Honourable Society of the Middle Temple," and of the "Attendance in Hall." App. p. 235.

Mr. Charles Edward Hunt, Treasurer and Secretary of Barnard's Inn, attended, and was examined. Ev. 957 to 993.

The Chairman,—

Read a Note from Sir Thomas Erskine Perry, M.P. begging to excuse his non-attendance, owing to his being engaged upon a Parliamentary Commission.

Adjourned till *Tuesday* next, the 4*th of July.*

The NINTH MEETING was held on *Tuesday*, the *4th of July* 1854, at 4 o'clock.

PRESENT:

Vice Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Course of Proceeding during the Vacation was discussed. The Chairman read the following letter, received by Mr. Napier, from Mr. Patrick Fraser, of the Scotch Bar, relating to the subject of Legal Education in Scotland, and as to the Admission to the Scotch Bar.

"SIR, "46, Northumberland Street, Edinburgh, 18 May 1854.

"I AM induced, on behalf of the Faculty of Advocates in this country, to address you upon a subject in regard to which considerable interest is at present felt by them, and in reference to which you have yourself taken a leading part in Parliament.

"The Faculty some time ago appointed a Committee, of which I am Convener, to consider and report upon the subject of education and training through which members of the Bar, before their admission, ought to be compelled to go. In carring out the objects of this Committee we have had communications with members of the Bars in America, France, Germany; and I now take the liberty of writing to you, in the hope that you may afford us some information in reference to England and Ireland.

'I beg to apologize for intruding upon your valuable time, but I believe that I am not mistaken in supposing that the interest you take in the subject, and your love of the Profession, would induce you, if in your power, to give us what assistance you can.

"At the present moment an Advocate at the Scotch Bar requires, before admission, to go through no particular Course of Study. He is not obliged to attend any Philosophical Classes. He requires to produce no Certificates from Professors in Universities. All that he has to do is to pay about 350*l.* of Fees, and to stand a very loose examination on the Civil Law and another on the Law of Scotland, neither of which takes up more than five or ten minutes. As a test of Scholarship, or of Legal acquirement, it would be absurd to designate such forms as these, and the result is, that general Scholarship and enlarged study of Jurisprudence, which were formerly exhibited by Scotch Lawyers, are in danger of being regarded as very unnecessary and pedantic accomplishments.

"In order to elevate the tone of the Bar, and preserve the body from an irruption of uneducated men, a Committee has been appointed to devise some means for the attainment of this object. The question that we have to determine is whether or not we shall insist upon a compulsory University Curriculum of four or five years.

"This would exclude uneducated persons, but it might also prevent able men from becoming Members of the Body not having had an University education. Our great Commentator, Lord Stair, was an Officer of Dragoons, and so also was one of our best Judges, Lord Corehouse. To provide for such exceptional cases as these, some difficulty has been experienced. If men are fit by their education and their manners, that is all that is required. But who is to examine them? In Germany, Government appoint Professors in the Universities. Perhaps some such course as that might be adopted with us, and higher fees paid where a party has not attended an University.

"With this statement of the objects of the Committee, I will now trouble you with a few of the points upon which information would be acceptable.

"I may say, that in reference to England, I have obtained the printed Rules contained in a Report to the Benchers of the Law Societies in London, and which seems to embody (except the matter of expense) the whole information, as to the education of the English Barrister, which we require. It is, therefore, in reference to Ireland that I note the following points:—

"1st. Is it necessary for an Irish Barrister, before his admission, to attend Philosophical Classes in an University, and to produce evidence of his having done so, by production of the Certificates of the Professors? I may mention that this was formerly required in Scotland, and that if not now followed, it is in consequence of the neglect into which a wholesome Rule has fallen, from there being no Officer appointed particularly to enforce it.

"2dly. Is it imperative to attend Lectures upon Law, at an University? and if so, what branches of Law are taught?

"3dly. What Examinations must be gone through, if any, before admission?

"4thly. After a party has declared his intention of coming to the Bar, is he allowed to carry on any Profession, such as that of a Clerk in an Office or to adopt any other means for acquiring a livelihood; or must he spend a certain time secluded from business and devoted to study, before he can be admitted to the Bar?

"5thly. Is there any practice in the University of Dublin, or any of the Irish Universities, whereby a party may attain a Degree, upon merely standing an Examination, and without going through an University Curriculum?

"Again, begging you to excuse the trouble which this communication will put you to,

"I have the honour to remain, faithfully yours,

"PATRIC FRASER."

It was Ordered,—

That the Secretary do write to Mr. Fraser, and request him to furnish this Commission with copies of any communications he may receive on the subject of Legal Education and training for the Bar, from America, France, Germany, or any Foreign Countries, and ask him to whom he had written for information on these subjects, and add that Her Majesty's Commissioners will be happy to forward to him any answers which they may receive, and the result of any inquiries which they may make as to these matters.

Adjourned till *Tuesday* next, the 11*th instant.*

The TENTH MEETING was held on *Tuesday*, the 11*th of July* 1854, at 4 o'clock.

PRESENT:

Vice Chancellor The Honourable Sir William Page Wood, in the Chair.
The Right Honourable Joseph Napier, Q.C., M.P.
The Solicitor General, M.P.
John George Shaw Lefevre, Esq., C.B.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Chairman,—

Read a Draft Form of Interrogatories, which he had drawn up to be sent round to gentlemen for their consideration, and to elicit their opinions. App. p. .

He also read a Draft Form of Queries prepared by Mr. Greenwood, to be addressed to the several Lecturers at the different Inns. App. p. .

It was Ordered,—

That the Secretary do have these Interrogatories and Queries printed.

The Course as to the future Proceedings of the Commission was discussed.

It was Ordered,—

That the Secretary do write and request the attendance of General Thomas, of the United States Army, and of Dr. Maine, Reader on Jurisprudence and the Civil Law to the Honourable Society of the Middle Temple, to give evidence before Her Majesty's Commissioners at their next Meeting.

Adjourned till *Tuesday* next, the 18*th instant.*

The ELEVENTH MEETING was held on *Tuesday*, the 18*th of July* 1854, at 4 o'clock.

PRESENT:

Vice Chancellor The Honourable Sir William Page Wood, in the Chair.
The Right Honourable Joseph Napier, Q.C., M.P.
The Solicitor General, M.P.
Sir Thomas Erskine Perry, M.P.
John George Shaw Lefevre, Esq., C.B.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Chairman,—

Read a communication from Mr. Patrick Fraser, of Edinburgh, respecting the proceedings of the Committee of the Faculty of Advocates, with regard to the training for the Bar in Scotland, and forwarding to Her Majesty's Commissioners copies of the Report of the Faculty of Advocates, the "Guide de l'Etudiant en Droit," in France, Walker's "Court Rules," in America, and a letter from Mr. Thomas Balch, Solicitor at Philadelphia, in the United States. App. p. 270.

The Chairman also read, from page 57 of the above-mentioned Report, the Course of Legal Education proposed to be prescribed by the Faculty of Advocates in Edinburgh.

Ev. 994 to 1088. General Thomas, of the United States Army, was examined as to the Course of Proceeding respecting admission to the Bar in America, and particularly to that of the State of New York, of which the witness is now a Member.

Ev. 1089 to 1165. Dr. Maine, Reader in Jurisprudence and the Civil Law to the Honourable Society of the Middle Temple, was also examined.

It was Ordered,—

That the Secretary do write and request the attendance of Adolphus Bach, Esq., of Herbert Broom, Esq., Reader on Common Law to the Honourable Society of the Inner Temple, of John George Phillimore, Esq., Q.C. and M.P., Reader on Constitutional Law and Legal History to the Inns of Court, and of William Lloyd Birkbeck, Reader on Equity to the Inns of Court, to give Evidence before Her Majesty's Commissioners at their next Meeting.

Adjourned till *Thursday* next, the 20th *instant.*

The TWELFTH MEETING was held on *Thursday,* the 20*th of July* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Right Honourable Joseph Napier, Q.C., M.P.
John George Shaw Lefevre, Esq., C.B.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

Ev. 1166 to 1231. Mr. Herbert Broom, Barrister-at-Law, and Reader on Common Law in the Inner Temple,
Ev. 1232 to 1299. Mr. Adolphus Bach, Member of the Legal Profession in Saxony, and Mr. William Lloyd
Ev. 1300 to 1354. Birkbeck, Reader on Equity at Lincoln's Inn, were severally examined.

It was Ordered,—

That the Secretary do write and request the attendance of Reginald Walpole, Esq., Reader on the Law of Real Property to the Inns of Court, and of David William Lewis, Esq., of Lincoln's Inn, to give Evidence before Her Majesty's Commissioners at their next Meeting.

Adjourned till *Tuesday* next, the 25*th instant.*

The THIRTEENTH MEETING was held on *Tuesday,* the 25*th of July* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Solicitor-General, M.P.
Sir Thomas Erskine Perry, M.P.

Julius Talbot Airey, Esq.,
Secretary.

Ev. 1355 to 1387. The Course of Proceeding during the Vacation was discussed.
Ev. 1388 to 1440. Mr. Reginald Walpole, Reader on Conveyancing at Lincoln's Inn, and Mr. David William Lewis (Reader on Real Property at Gray's Inn before the present System commenced), were severally examined.

Adjourned till after the Vacation.

The FOURTEENTH MEETING was held on the 22*d of November* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
Henry Singer Keating, Esq., Q.C., M.P.
John George Shaw Lefevre, Esq., C.B.
Thomas Greenwood, Esq.
Germain Lavie, Esq.,

Julius Talbot Airey, Esq.,
Secretary.

App. p. 270. Mr. Keating handed in a Letter from M. Algernon Jones, Advocate of the French Bar, with a Paper sent by M. Jones, showing the Course of Study in Paris for Students in the Law during the years 1853–54.

It was Ordered,—

That the Secretary do have M. Algernon Jones' Letter and the accompanying Paper printed.

Mr. Greenwood mentioned having collected divers Papers on the subject of Legal Education in Germany, whilst he was travelling in that Country during the Vacation, and which he should lay before the Commission, when properly arranged. App. p. 272.

It was Ordered,—

That the Secretary do write and request John George Phillimore, Esq., Q.C., M.P., Reader on Constitutional Law and Legal History to the Middle Temple, Alexander Pulling, Esq., Barrister-at-Law of the South Wales Circuit, John Corley, Esq., Barrister-at-Law of Gray's Inn, Robert Maugham, Esq., Secretary to the Incorporated Law Society of the United Kingdom, and Charles M. Clode, Esq., of Gray's Inn, to attend and give Evidence before Her Majesty's Commissioners at their next Meeting.

It was Ordered,—

That the Secretary do procure for the use of Her Majesty's Commissioners the "Guide de l'Etudiant en Droit," in France.

Adjourned till *Monday* next, the 27*th instant.*

The FIFTEENTH MEETING was held on *Monday*, the 27*th of November* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
Sir Thomas Erskine Perry, M.P.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.

Julius Talbot Airey, Esq.
Secretary.

The Secretary laid before the Chairman a Letter from Mr. Clode of Gray's Inn, explaining his non-attendance this day, in obedience to the Summons addressed to him by Order of Her Majesty's Commissioners at their last Meeting.

Mr. Pulling, Barrister-at-Law of the South Wales Circuit, was examined as to the system respecting Certificated Conveyancers and Special Pleaders; and as to the Regulations of the Benchers of the different Inns of Court with regard to them. Ev. 1441 to 1457.

Mr. Robert Maugham, Secretary to the Incorporated Law Society of the United Kingdom, was examined as to the Inns of Chancery. Ev. 1458 to 1465.

Mr. John George Phillimore, Q.C., M.P., Reader on Constitutional Law and Legal History, at the Middle Temple, was examined. Ev. 1466 to 1526.

Adjourned till *Thursday* next, the 30*th instant.*

The SIXTEENTH MEETING was held on *Thursday*, the 30*th November* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
Sir Thomas Erskine Perry, M.P.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The present System of Legal Education was discussed generally.

It was Ordered,—

That the Secretary do send copies of the Queries prepared by Mr. Greenwood, as to the system of Legal Education, to the Lord Chancellor, and all the Equity and Common Law Judges, to Lord Lyndhurst, to Lord Brougham, to Lord Truro, to Lord St. Leonards, to Sir John Pattison, and to Sir Edward Ryan; and that he do write and request them "to be kind enough to favour Her Majesty's Commissioners before the first of January "next, with their views on any of the Questions in which they may take an interest."

It was also Ordered,—

That the Secretary do write to the Secretary of the Society for the Amendment of the Law, and to the Secretary of the Incorporated Law Society of the United Kingdom, and request them to ask two members of each of their Societies to attend and give Evidence before Her Majesty's Commissioners on Tuesday next the 5th of December.

And that the Secretary do also write and request the attendance of Edward Henry John Craufurd, Esq., Barrister-at-Law of the Home Circuit, and M.P., on the same day, and for the same purpose.

Adjourned till *Tuesday*, the *5th of December*.

The SEVENTEENTH MEETING was held on *Tuesday*, the *5th of December* 1854, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
Sir Thomas Erskine Perry, M.P.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

App. p. 272. Mr. Greenwood laid upon the table his Report.

It was Ordered,—

That the Secretary do have the same printed.

The Secretary handed in a letter which he had received from Mr. Craufurd, M.P., excusing his non-attendance this day before Her Majesty's Commissioners, in obedience to their Summons, on account of his absence in Scotland.

Ev. 1527 to 1591. Mr. William Strickland Cookson, one of the Council of the Incorporated Law Society of the United Kingdom, was examined as to the system of Legal Education for Solicitors and for Attornies-at-Law.

App. p. 287. Mr. Cookson also handed in to the Commission the Memorial of the Incorporated Law Society to the Judges on the Examination and Admission of Attornies, dated the 28th of May 1835.

Ev. 1527 to 1591. Mr. Keith Barnes, Vice President of the same Society, was also examined on the same subject.

Ev. 1592 to 1624. Mr. Robert Lowe, Barrister-at-Law of the Northern Circuit, and M.P., deputed by the Society for the Amendment of the Law, was examined upon the subject of Legal Education.

Ev. 1625 to 1634. Mr. George Woodyatt Hastings, Barrister-at-Law of the Oxford Circuit, likewise deputed by the Society for the Amendment of the Law, was examined on the same subject.

Ev. 1635 to 1661. Mr. Hugh M'Calmont Cairns, of the Chancery Bar, and M.P., was examined and gave Evidence upon the same subject.

Adjourned till *Saturday*, the *6th of January* 1855.

The EIGHTEENTH MEETING was held on *Friday*, the *9th of February* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair
The Honourable Mr. Justice Coleridge.
The Solicitor General, M.P.
Sir Thomas Erskine Perry, M.P.
John George Shaw Lefevre, Esq., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

App. p. 262. The Secretary laid upon the table the replies received from the Honourable Mr. Baron Martin to the Queries sent to him by order of the Commissioners, on the 2d of December last; and also a paper of "Suggestions as to Legal Education," received from John Lowe, Esq., of Broad Oak, Accrington, and one of "Suggestions as to the Inns of Chancery," sent in by Charles M. Clode, Esq., of Gray's Inn.

The Chairman,—

Read Mr. Baron Martin's replies to "Queries."

A Paper of "Suggested Heads for a Report," prepared by Mr. Shaw Lefevre, was put in and the subject was generally discussed.

Adjourned till *Tuesday*, the *13th of February* 1855.

The NINETEENTH MEETING was held on *Tuesday*, the 13*th of February* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir Wiliam Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
The Solicitor General, M.P.
Sir Thomas Erskine Perry, M.P.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Chairman,—

Read extracts from the paper sent in by Mr. Clode, of Gray's Inn. App. p. 295.
Also read the papers of Mr. Lowe, of Broad Oak Accrington. App. p. 288.
Likewise read the reply received from Vice Chancellor Stuart to the Queries sent to him by order of the Commissioners on the 2d of December. App. p. 261.
Also read the Suggestions of Mr. Lavie. App. p. 282.

The subject of the Report was discussed generally, and it was unanimously resolved:

1st. That we are of opinion that the duty of preparing Students in Law for admission to the Bar, and of securing their due qualification for admission, is necessarily imposed upon the several Inns of Court.

2d. That for the purpose of securing uniformity with respect to the admission of persons to the Bar, it is desirable that a Central Board should be constituted, the Members of which should be elected by, and selected from, the Members of the several Inns of Court, in such manner as shall be subsequently determined upon, and that such Central Board should be incorporated as a University or Faculty, and should have the sole regulation and control of the education of Candidates for the Bar, and should also call to the Bar such Candidates as they may consider duly qualified in respect of education, but only on their being presented for such call by the Inns of Court of which respectively they are members.

3d. That in order to secure the due qualification of Candidates for the Bar in respect of education, it is requisite that none but those only who have received a liberal education should be admitted as Students, and for that purpose that a preliminary Examination should take place of all Candidates for admission as Students, except in the case of those who have taken a Degree at any University in England or at Trinity College, Dublin, and with such other exceptions as may afterwards be determined upon. And further, that every Student should be submitted to another Examination as to his knowledge of Law before his call to the Bar.

Adjourned till *Monday*, the 19*th of February* 1855.

The TWENTIETH MEETING was held on *Monday*, the 19*th of February* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
John George Shaw Lefevre, Esq., C.B.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Formation and Constitution of the Central Board was discussed.

The Meeting was then adjourned.

The TWENTY-FIRST Meeting was held on *Friday*, the 4*th of May* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

Mr. Daniel Whittle Harvey was examined. Ev. 1662 to 1668.

Adjourned till *Wednesday*, the 23*d of May* 1855.

The TWENTY-SECOND Meeting was held on *Wednesday*, the 23*d of May* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
The Attorney General, M.P.
The Solicitor General, M.P.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Draft of that portion of the Report relating to Legal Education was discussed.

Adjourned till *Monday*, the 28*th of May* 1855.

The TWENTY-THIRD MEETING was held on *Monday*, the 28*th of May* 1855 at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

It was Ordered,—

That the Secretary do apply to the Treasurers of the four Inns of Court, and request them to furnish Her Majesty's Commissioners with Returns of the number of Students admitted to their several Inns in each year, from 1849 to 1853 inclusive.

The proposed Heads of a Scheme for the purpose of forming the four Inns of Court into a University or Faculty, were discussed generally.

Adjourned till *Friday*, the 1*st of June* 1855.

The TWENTY-FOURTH MEETING was held on *Friday*, the 1*st of June* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating Esq., Q.C., M.P.
Thomas Greenwood, Esq.

Julius Talbot Airey, Esq.,
Secretary.

App. p. 232, 238, 248, 257- The Secretary put in the Returns received from the four Inns of Court as to the Number of Students admitted at each of these Inns during the years 1849, 1850, 1851, 1852, and 1853.

The proposed Heads of a Scheme for the purpose of forming the four Inns of Court into a University or Faculty were further considered and discussed.

App. p. 299. The Secretary submitted Mr. Clode's letter of the 26th of May 1855.

Adjourned till *Wednesday*, the 6*th of June* 1855.

The TWENTY-FIFTH MEETING was held on *Monday*, the 6*th of June* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
Thomas Greenwood, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Meeting was necessarily dissolved, owing to the non-attendance of a sufficient number of Members.

Adjourned till *Monday*, the 11*th of June* 1855.

The TWENTY-SIXTH MEETING was held on *Monday*, the 11*th of June* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
The Attorney General, M.P.
The Solicitor General, M.P.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The proposed Heads of a Scheme for the purpose of forming the four Inns of Court into a University or Faculty were further considered and discussed.

The question as to whether or no there should be any preliminary Examination before admission as Student to an Inn of Court, was put to the vote, and carried by the majority, the Attorney General alone voting against it.

Then by the votes of all the Members present, except the Attorney General, it was Resolved, That the subjects of such Examination should be—

1. English History.
2. Latin.

It was further unanimously Resolved, That neither Greek, nor French, nor German should be required.

And by a majority of three to two, that Elementary Mathematics and Logic should also not be required.

Mr. Lefevre and Mr. Lavie were the minority, and the Attorney General did not vote at all.

Adjourned till *Tuesday*, the 19*th of June* 1855.

The TWENTY-SEVENTH MEETING was held on *Tuesday*, the 19*th of June*, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Drafts of the proposed Financial portion of the Report, and also of the Summary of the Evidence, were read and generally discussed.

Adjourned till *Monday*, the 2*d of July* 1855.

The TWENTY-EIGHTH MEETING was held on *Monday*, the 2*d of July* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Honourable Mr. Justice Coleridge.
John George Shaw Lefevre, Esq., C.B.
Henry Singer Keating, Esq., Q.C., M.P.
Thomas Greenwood, Esq.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

The Chairman,—

Read the first portion of the Draft of the Report, which was discussed and corrected.

Mr. Keating and Mr. Lavie were requested to receive some further Evidence from Mr. Bryant, the Under Treasurer of the Inner Temple, on Wednesday Morning next at half after 10, in the Parliament Chamber of that Honourable Society.

Adjourned till *Friday*, the 6*th of July* 1855.

MEETING of the SUB-COMMITTEE in the Parliament Chamber of the Honourable Society of the Inner Temple on *Wednesday*, the *4th of July* 1855, at half after 10 o'clock.

PRESENT:

Henry Singer Keating, Esq., Q.C., M.P.. in the Chair.
Germain Lavie, Esq.

Julius Talbot Airey, Esq.,
Secretary.

Ev. 1669 to 1697. Mr. Bryant, the Under Treasurer of the Inner Temple, was recalled and examined as to the measures taken by the Honourable Society of the Inner Temple in furtherance of Legal Education before the establishment of the present system.

The TWENTY-NINTH MEETING was held on *Friday*, the *6th of July* 1855, at 4 o'clock.

PRESENT:

Vice-Chancellor The Honourable Sir William Page Wood, in the Chair.
The Right Honourable Joseph Napier, Q.C., M.P.
John George Shaw Lefevre, Esq., C.B.,

Julius Talbot Airey, Esq.,
Secretary.

The Chairman,—

Read a Letter received by the Secretary from J. Corley, Esq.

It was Ordered,—

That the Secretary do write to Mr. Corley, and say that the reception of Evidence is now closed, and that Her Majesty's Commissioners are now engaged upon their Report; but that if he would be good enough to put upon paper any information he wishes to give, or any Suggestions which he thinks would be useful, they would receive every attention from, and be carefully considered by the Members of the Commission.

INNS OF COURT INQUIRY COMMISSION.

APPENDIX A.

Minutes of Evidence.

MINUTES OF EVIDENCE

TAKEN BEFORE

HER MAJESTY'S COMMISSIONERS

APPOINTED TO INQUIRE INTO THE

ARRANGEMENTS OF THE INNS OF COURT.

Thursday, 8th June 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

Sir FITZ-ROY KELLY, Q.C., M.P., examined.

Sir Fitz-Roy Kelly, Q.C., M.P.

8th June 1854.

1. ARE you the Treasurer of Lincoln's Inn?—I am Treasurer this year.

2. Are you prepared, with the assistance of the Steward, to make any statement with reference to the property of the Inn which might be made available for the purposes of Legal Education?—The Steward of Lincoln's Inn attends here and is quite ready to afford the Commission any information that may be required. I cannot myself speak accurately as to the state of the funds, or whether there is any income, surplus income, or otherwise properly applicable to the purposes of Legal Education. I believe I may say generally, that until some years ago, before the building of the new Hall, from one cause or another, a very considerable surplus was in the hands of the Society, but the Hall has been built at an expense of about 100,000*l.* The result is, that not only the large surplus that was in hand has been expended, but that a debt has been incurred. Mr. Doyle, the Steward, will be able to state to you the amount, but a very considerable debt is now due by the Society; we pay a large sum annually as the interest upon that debt, and I cannot think that until that debt shall be discharged (and when that will be I am sure I am quite unable to state,) any sum whatever can be, properly speaking, applicable to any other purposes than those which are now assigned. I may state,—as I believe I have already informed the Commission by a letter written with the sanction of the Bench,—that we pay at present I think I may say upwards of 500*l.* a year in various ways for the purposes of Legal Education,—Studentships and Lectureships, and in other ways,—and I cannot myself think that the funds of the Society will be in a condition, until that large debt which is now due shall be discharged, to afford anything further for the purposes of Legal Education.

3. It is only recently that the system has been adopted of giving Lectures under the regulations of a Committee of all the Inns of Court?—Yes.

4. Have you had any opportunity yourself of judging whether that system of giving Lectures and requiring Examinations is working well?—With respect to the giving of Lectures, I have no doubt that so far it works well, and that it is very fit and desirable that Students at Law should attend Lectures; but I cannot think myself (it is but my own private opinion) that any extension of the system of Legal Education would be practically useful. I think it is an object of much greater importance, in admitting persons to be Members of an Inn of Court, with the view to a Call to the Bar, to secure good character and a liberal education; but beyond that, certainly, my own opinion is, that no general system of Legal Education would be practically useful. Persons who desire to be called to the Bar, study, as we know, under a Conveyancer, or Special Pleader, or Barrister, as it may be, according to the department of the Law which they seek to enter, and in that way, substantially speaking, a Legal Education is to be acquired, which will fit a gentleman for the Bar. No doubt, in addition to that, it is as I have said, to a limited extent, very well to attend Lectures, and to derive the information that a course of Lectures will afford; but I must say, that I do not think that any extension of the system would add to the qualifications of a man about to be called to the Bar, or have any generally good practical effect.

5. Have you considered at all the question of extending the system of Examinations, so as to make it compulsory upon a Student, before he is called to the Bar, to pass an Examination?—I cannot say that I have bestowed much attention upon that subject, but my own opinion is, that compulsory Examinations are not expedient. I think, as I have said, that it is very fit that there should be an Examination, before a person is admitted to be a Member of an Inn of Court, with a view to ensure that he shall be a person of liberal

Sir Fitz-Roy Kelly, Q.C., M.P.

8th June 1854.

education, possessing sufficient classical knowledge and generally a liberal education. But with regard to any compulsory Examination of the Legal qualifications of a gentleman to practise at the Bar, I cannot say that I am in favour of it at all. I think that in whatever form the Examination takes place, it might have the effect of excluding persons who are undoubtedly competent, and who might afterwards much distinguish themselves and obtain the highest degree of success at the Bar; and on the other hand, from accident, from preparation, from one cause or another, any system of Examination might have the effect of admitting persons who are incompetent; and I think that any system of Examination such as that, is quite unnecessary. If a man be not competent, he will never succeed at the Bar; and if he be, he ought not to be excluded.

6. Does not your answer in effect go to this—that men will prepare themselves, from motives of interest, for that branch of the Profession in which they intend to practise?—Yes.

7. But might not some good system of Examination be very desirable, with a view to generalize their knowledge. Do you think that Barristers have usually as general a knowledge of the Law as they ought to have?—I think as general as it could be made by any system of education. I do not think that any Lectureship, or any general system of Legal education would add to the general knowledge possessed by Barristers. Speaking from my own personal experience,—and I may allude at the same time to that of many of my fellow Students, who have since, some of them at least, become distinguished men at the Bar,—we really had no time, during our studies, for what may be called general education; what little time remained beyond that occupied at the Chambers of the Barrister or Special Pleader under whom we studied, would be now more than occupied by the Lectures which have been instituted by the different Inns of Court.

8. Whether it were by Lectures in different branches, or whether it was by appointing Examinations in different branches, do not you think that if you could bring a man, who is preparing for the Common Law Bar, to an acquaintance with, say the Civil Law to a certain extent (taking that as an instance only), it would be very desirable?—I think it would be desirable that the sphere of human knowledge should be always enlarged, but I do not think that any system of Examination or education could have the effect of imparting to all Barristers any very great or substantial degree of knowledge in the particular branches of the Law, not immediately those in which the Student means to practise. Take the Civil Law as an example. Men who are studious and who are fond of knowledge, in general will acquire some knowledge of the Civil Law; but at best it is very limited, and I think that to impose that as a condition of being called to the Bar, would be either to ensure failure, or at least to lead to the acquisition of only a very limited and perhaps a very superficial degree of knowledge.

9. With respect to the question of time to which you alluded, is not a vast amount of time at present wasted in a Special Pleader's office, in copying Precedents?—I do not see how that is to be improved or cured, otherwise than by reforming the mode of teaching in Special Pleader's Offices. I should rather say that it would be the fault of the instructor, where the system was so bad as to waste the time of his pupils.

10. Might not more knowledge be gained from the Special Pleader's instructions in less time, and would not it probably be gained in less time if the Students knew that they must, if Common Lawyers, acquire some moderate portion of Civil Law or Equity, or some portion of Common Law if they are Equity men?—I think if a Student, intending to practise at the Common Law Bar, desires to acquire a knowledge of Equity or of Civil Law, he will study it; but to make it compulsory, seems to me to be overloading Students beyond the necessity of the case. It sometimes happens that they really have not sufficient time to acquire a competent knowledge of all the three branches of the Law, and what I am afraid of (though I speak with great diffidence on the subject), is, that of all but the branch in which the Student intends to practise, he would acquire only a superficial knowledge. If, on the other hand, you are to impose on him the necessity of bestowing so much time as to give him the means of acquiring a substantial degree of knowledge of those other branches, I think you will too much interfere with that which is to be the branch of Law in which he is to practise.

11. When you speak of want of time, you are speaking as if there was a limited time as at the Universities, where a man must be examined after so many Terms. Is not it quite discretionary with a young man, what time he will devote to his preparation for the Bar, except as it may be regulated by expense?—I speak from what happens to each individual. It happened to me, in my own case, that, from various circumstances,—indeed I may say that I was so situated with reference to my fortune—that, in my own case, it was necessary that I should practise at the earliest possible period; and I began to practise as a Special Pleader, fifteen months after I first began to study at all. If I had been obliged during that time to study not only Common Law but Equity and Civil Law, so as to acquire that general knowledge which would enable me to undergo an Examination, I must have deferred beginning to practice as a Special Pleader.

12. But yours is rather a special case. You would not lay it down as a general rule, that fifteen months' study of the Law should be sufficient before beginning to practise?—No.

13. As a Barrister, in very large practice, has not time to attend to anything more than the current business of the day, would not a course of twelve or eighteen months or two

Sir Fitz-Roy Kelly, Q.C., M.P.

8th June 1854.

years, in general Legal science, be extremely valuable to him in after-life?—I think it would be extremely valuable. The only doubt I entertain is, whether it should be compulsory. Some people's intellects are not so quick as those of others; and, considering also that some men, not of strong health, cannot study for so many hours a day as others, I think that three years is by no means too long a time for attaining a competent knowledge for the practice of that branch in which the gentleman may intend to practise; but if you rendered it compulsory upon all persons to study the other two branches, you might very materially interfere with the means and ability of the individual to begin to practise at the expiration of the time. The most, I think, that should be done, is to hold out every facility, to give Lectures in Civil Law, in Equity, and in Common Law, so that when they hear the Lectures, the natural curiosity of the young man, and his desire of knowledge may be excited, and that he may set aside, at his own pleasure, as much of his time as he can spare for the other branches beyond that in which he intends to practise; and such persons will do so. I know that even during the little time that I have stated myself to have been a Student, one fifth of the time was spent in studying Equity and Conveyancing; and afterwards, till I got into business as a Special Pleader, I read a great deal of Equity and Civil Law during the first two years that I was practising as a Special Pleader, and I believe that would be the case with others. But, on the other hand, if you consider those who may not be so fond of study as others may be, and who may not be able to learn so quickly, I am afraid that if you render it compulsory upon them to study the other two branches, you will very much interfere with their acquiring a competent knowledge of one.

14. Your opinion rather goes to leaving it to self-education, without prescribing any rules upon the subject which must be observed?—What I mean is this, that I do not think that any knowledge of Law, or of Equity, or of Civil Law, additional to that which may be acquired and should be acquired in the Chambers of persons practising in those several branches respectively, ought to be imposed upon every Student as a matter of necessity. It seems to me, that if a gentleman has three years, and he chooses to study two years with a Common Law Barrister or a Special Pleader, and then half a year with a Conveyancer, and half a year with a Doctor of Civil Law, it is very desirable that he should do so; but I think that it should be left to himself to determine whether or not he will so extend the sphere of his studies. I think the Lectures which are now instituted would be quite enough to call his attention to the subject, and that then it should be left to himself. But I have never heard any suggestion of any system of general education, which should make it matter of necessity for anybody, during a certain portion of the three years, or more or less, during which he has to prepare himself to be called to the Bar, compulsorily to study the other two branches.

15. Looking at the station of Barrister, and the great amount of Legal privilege conferred upon a party by his being called to the Bar, and being entitled to practise as a Barrister, do you consider it not to be desirable that there should be some test of his fitness to have those privileges, and to be placed in that position, regard being had both to the interest of the Public on the one hand, and to the dignity and station of the whole Profession on the other?—I cannot say that I think any tests should be applied, except those which I have mentioned; through which you would secure a liberal education and an honourable character. I think any tests as to knowledge of the Law, in any branch, are inexpedient, and are likely to be fallacious.

16. With respect to a test of liberal education, that course has been taken upon one occasion; but in the Inns of Court at present there is no test of liberal education?—There is none.

17. Then, as it at present stands, there is no test whatever of the ability and fitness of the individual; but the mere fact of his name having been a certain number of years upon the Books, and of his having attended a certain number of times in the Hall, confers the privilege upon the party? Would you suggest any anterior Examination, of a general character, before he is admitted to that privilege?—Yes. In that respect I think the system of Lincoln's Inn is defective. I think myself, that at some period or other (and I know of no period so appropriate as on the first admission to the Society), there should be an Examination, which would satisfy the Authorities of the Inn of Court that the Student about to be admitted has had a liberal education; and that inquiries should be instituted which would satisfy them that he does possess a character for integrity. But with those two things, I really do think that anything more is superfluous. There are many considerations which have often occurred to my own mind as to Examinations in relation to Law. I do not know why it may not be for the benefit of the Public, that a person should be called to the Bar who may have a very moderate and limited knowledge of Law, but who yet, from a sort of Legal habit of thinking and investigating and considering Cases, acquired even by six months' residence or less in a Barrister's Chambers, may have better qualifications for acting as a Magistrate and for performing various duties in various orders of society; and I should be very loth indeed to exclude from the Bar all but such as could undergo an Examination, the result of which would be to satisfy the Authorities that they were fit to practise at the Bar.

18. You would prefer an Examination anterior to his first admission, to satisfy them that he was a person of competent education to enter upon the career?—Yes. I think that any one of liberal education and good character who has an opportunity of acquiring

Sir Fitz-Roy Kelly, Q.C., M.P.

8th June 1854.

the knowledge requisite for a Barrister, will do so if he really means to practise as a Barrister; or if he fails to do so, he cannot practise with effect; and I do not see any evil to the community. There is a very great evil to the community in having men of bad character at the Bar; but I do not see any in having a few, as there must be, or even many, who do not possess sufficient ability or knowledge to practise with effect; in fact, to use a familiar expression, they are very soon found out. If an Attorney sends business to them, it is very small business that is first given to a young man at the Bar; and if he gives business to him, and finds that he does not do it well—that, from want of knowledge, he is unable to conduct his Cases—then he will very soon cease to employ him, and such an individual will very soon cease to be at the Bar. I do not see what evil is done by a great many failing; as it is evident that a great many must fail, if we contrast the number who alone can succeed with the number actually called to the Bar.

19. Would it not be very valuable for the higher order of practitioners, the men of talent, if, before being called to the Bar, they were required to possess a general knowledge of all the branches of the Law, which they might obtain from compulsory Lectures instituted for the purpose?—I do not object to compulsory Lectures to the extent to which they now exist. I think it a very desirable thing, that Students should be obliged to attend Lectures; but they should be very limited in number, so as to occupy but a very limited proportion of time. If the Student has a desire for learning—if he hopes to attain great eminence, he must know that he must study not only the particular branch of Law or Equity in which he intends to practise, but that he must acquire some knowledge, and some substantial knowledge, of the other branches. And he will do so as soon as his attention is called to the subject, and an opening is given by Lectures to the first rudiments of the branch of Law in question. My objection to your compelling anybody to do so is, that you cannot do it without the compulsory occupation of a great deal of time, which may have the effect of leaving persons of only moderate ability, incompetent to do what they otherwise might do with great effect; that is, practise with a moderate degree of success in the particular branch that they choose.

20. You consider, that after a man is called to the Bar, he may acquire these qualifications?—Yes; he may acquire these qualifications by voluntary studies in the other two branches. Most men pass the first three or four or five years with a very limited degree of business; they have, therefore, a great deal of time on their hands; and persons whose attention has been called to these subjects by Lectures—so that they must know something of them, and must have been put upon thinking upon them, and who see that the most eminent and most successful men have a knowledge of other branches as well as their own,—such persons will be induced, during those years of leisure, to study if they are so disposed. But if they are not so disposed, if they are content with a moderate degree of success, and perhaps possess only moderate abilities, I do not know why they should be forced to study those other branches, so as perhaps to impair their capacity to succeed in the one that they have chosen.

21. Your opinion rather points to this, that practical success in the Profession afterwards is the great thing to be looked to. But there must be a vast number of persons attending an Inn of Court who will never be called to the Bar at all, and to whom, therefore, success in the Profession is out of the question; and yet who have a right to expect some benefit from their having been at an Inn of Court. May it not be very desirable to make an Inn of Court a place to which people should go with a view to Legal education, without considering whether they should succeed at the Bar afterwards or not?—I should be very glad to endeavour to form an opinion upon that, if any scheme were distinctly stated; but before I can form any opinion upon that, I should like to hear something like a practical and specified scheme.

22. We find that at present every Inn of Court has appointed some given time, before which they will not allow a man to be called to the Bar. And, although it may be very true, that in some cases, six months might be sufficient to enable some particular men to practise successfully, you would not, therefore, say that there should not be some definite time, during which they should be required to be upon the Books, before being called to the Bar?—No. I think it quite right that they should be at least three years upon the Books, during which time they must attend from time to time in London, and at the Inn of Court itself. But, before I can form an opinion as to whether the Inns of Court could themselves afford means of Legal education in all three, or perhaps more than three branches of the Law, I should like to hear what the scheme is, under which such a provision is to be made.

23. Before going into any particular scheme, would you not think such an end desirable to be attained by a good scheme, so that the three years should be really profitably employed under some regular system?—That raises the question, whether they are to be employed exclusively in the Chambers of Barristers in a different branch of the Profession. For example, if I were to enter myself at an Inn of Court this day, three years hence I may be called at the Bar. At present, I am obliged to attend certain Lectures upon Common Law, Equity, and Civil Law. I therefore learn something, and I am put upon thinking of something in relation to each of those three branches. If, on the other hand, I intend to become a Common Lawyer, I find that all the time beyond the few hours in the week, during which I attend those Lectures, that my health, or perhaps some other avocations, may permit me to bestow, will be necessary during the three years to qualify

Sir Fitz-Roy Kelly, Q.C., M.P.

8th June 1854.

myself to practise as a Common Law Barrister. Therefore, I should wish to know, before I could venture to form an opinion, what the system would be, and whether it is proposed to make it compulsory upon them, instead of passing the time I have mentioned in the Chambers of a Common Law Barrister or a Special Pleader, during the whole of the three years, to give so many hours a day, during the three years, or during even one year of the three years, to the study of the Civil Law, and so many hours a day to the study of Equity. If there be any general system contemplated, I should like to hear what it is, and what is to be the practical regulation as affecting Students. If it is meant to be said to him—although he may feel that he cannot qualify himself to act as a Barrister without studying the branch which he intends to practise for these entire three years, for so many hours a day, and cannot spare time for any other purpose—I say, if it is meant to be said to him, you shall not study your own particular branch during the entire of the period, but you must set aside during that period, six months for Civil Law, and six months for Equity, and leave yourself, therefore, only two years, with the other deductions for attending Lectures and so forth, for the study of the Common Law, I think, that to do that, would be very inexpedient, and that, with many people, it would leave them, at the end, in a state of inefficiency unfit for practise; whereas, if you give them the whole time, they would be perfectly fit for practice.

24. Would you not conceive, that in a case of that kind, some test would be desirable of the party's proficiency in some branch of the Law, leaving him his own selection before he is called to the Bar—say, for instance, that he should be allowed to go into the Chambers of any Special Pleader or Conveyancer, or any other party, but that he should, before being called to the Bar, be required to send in a subject in Common Law or Equity, and to say I am ready to be examined upon that subject; or do you still think that it would be more desirable to leave him wholly unfettered, without any test whatever, of his knowing anything of any one portion of the Law?—I confess I do not see the expediency of any Examination. In expressing that opinion, I am quite open to conviction to the contrary; but I think that no tests as to proficiency in any branch of the Law are of any avail. I am unable, myself, to conceive any Examination which will secure efficiency in any branch of the Law, and which, at the same time, may not, from a failure of parties to pass through the Examination to the satisfaction of the Examiners, have the effect of excluding men who might afterwards turn out to be among the most competent and able Members of the Profession; and I do not see what good the thing can do at all. If a man really has no knowledge at all of the Profession, we can hardly suppose he would be foolish enough to attempt to practise.

25. It has been suggested, that one objection to compulsory Examinations would be, that they might deter country gentlemen and others, who intend merely to be called to the Bar to fill the position of Magistrates, or who may wish to enter the Inn without being called to the Bar, from attending the Inns of Court. Do you think there is any force in that objection?—Yes, I do. I alluded to it some time ago. It appears to me, that many persons may wish to enter themselves at the Inns of Court, and afterwards to be called to the Bar, with the view of acquiring a sufficient degree of knowledge, to be very useful to them as country gentlemen, and yet wholly insufficient to enable them to practise at the Bar; and any Examination, with a view to competency to practise at the Bar, would, of course, have the effect of excluding such persons, and I think that would be a real evil.

26. Are you aware whether the Examinations for the different Regiments of the Army have been found to have the effect of excluding applicants?—No. But I think the Army is a totally different case. I do not know that one wants Military knowledge for any purpose but that of being a Soldier, or for serving in the Militia. But with regard to a knowledge of the Law, it is very important that country gentlemen and many others, not only persons intending to be Magistrates, but persons in general in the station of gentlemen, should have some knowledge of the Law, and that knowledge they would be apt to acquire if permitted to enter themselves at an Inn of Court. You may say that they might acquire it without; but they are much more likely to acquire it if they enter themselves at an Inn of Court, and associate with Lawyers; and it will make them better Magistrates, and more useful Members of Parliament, not so much from the degree of knowledge which they have acquired, as from the habits of Legal investigation and Legal consideration of cases that they have acquired by even six months in a Barrister's Chambers. I think that any kind of test of Examination that would have the effect of excluding from the Bar persons with this limited degree of knowledge, would be very unjust and very mischievous.

27. What value do they get by being called to the Bar, with reference to their becoming Magistrates or Chairmen of Quarter Sessions, it being no necessary qualification for the post?—None at all; but it is a little dignity, such as it is, the ceremony of being called to the Bar, which may be an inducement to them to acquire the degree of knowledge that they acquire. If one could be quite sure that everybody who meant not to practise at the Bar would, nevertheless, acquire all the knowledge that is now required by such persons, and would pass six months or twelve months in a Barrister's Chambers, whether he should afterwards be called to the Bar or not, then I do not say that you might not apply the test of the Examination; but there are many persons who do, for the sake of being called to the Bar, whether it is of any value to them or not, become Members of an Inn of Court, and they thus get into Legal habits and Legal associations, and acquire, by study

Sir Fitz-Roy Kelly, Q.C., M.P.

8th June 1854.

under a Barrister, some degree of knowledge of the Law, which they would otherwise never acquire at all.

28. Is it not quite clear, historically, from the remnants we have of fragments of Exercises and other old customs, that the period during which a person is required to have his name on the Books, was supposed to be a period of study under the sanction of the Inn?—I should think it was so.

29. Are you aware whether there are any Trusts, connected with the property of Lincoln's Inn, having relation to this subject?—I do not think there are any. I should say also, in conclusion, upon the subject as to which I have been questioned, that any compulsory studies in the Inns of Court, or any system of Education to be established by any of the Inns of Court, that would interfere with the free will of a Student, as to the length of time that he should pass in a Barrister's Chambers, would, I think, be a very alarming innovation. It would be, to me, at least, extremely alarming to say to a young man—who best knows what his own qualifications are for acquiring any information, and any branch of human learning—though you may think, that if you study under Mr. Keating or Mr. Coleridge, or anybody else at the Bar, for two or three years, that will qualify you, and best qualify you for the exercise of your Profession, I tell you that you must study for twelve months at least, in some way, under some instructors to be provided by the Inns of Court. I think that would interfere very materially indeed with the present system, which, at all events, is the only one of which we have any experience, and which has been found practically sufficient for the purpose. If, for example, the Inns of Court were to convert themselves into so many Colleges or Universities, for carrying out a system of Legal education, we must regard them as yet utterly untried. We do know, that by studying under a Barrister, just as long or as short a time as may be found necessary, any one branch or any two branches of the Law, men do acquire knowledge, by which they afterwards rise to great eminence. We have, therefore, experience in favour of the present system. And on the other hand, we have no experience of what would be the effect of interfering with the free will of the Student, and saying, you shall not study for such and such time under a Barrister of your own choice, but you must, out of the three years that you have at your disposal, take one year, and study under instructors, under a system that we prescribe to you.

30. With respect to the matter of past experience, is not it generally supposed, that the system of Special Pleaders under the Bar taking pupils at Chambers, has arisen within some fifty or sixty years, and that before that time, men acquired their knowledge, not in Barristers' Chambers, but rather by attending Lectures and Readings?—I fancy that that may be so.

31. Is it not supposed that the present system began about the time of Mr. Justice Buller?—I do not know how that may be historically; perhaps it may be as the question suggests. I can only say that we have the experience throughout our own time of this system, and we have no experience of the other.

32. But have we not the experience of France to appeal to; the French Barristers, who go through compulsory Examinations, after attending Courses of Lectures, being said to be generally a well educated and highly qualified set of men?—I do not know.

33. The effect of Examinations would be to secure, that every man called to the Bar should have a certain amount of Legal knowledge. Would not any system that should secure that end, with respect to country gentlemen and others, who attend the Inns of Court, be very desirable?—If I were to be a party to any compulsory system at all, it would be to compel people to do what I did myself; that is, to study under a Barrister or Special Pleader. What I mean is this: I found, and as far as I know, everybody else with whom in my early professional life I was acquainted, found that the best, the most satisfactory, and the most rapid mode of acquiring an accurate and sound knowledge of the Law, was to pursue a system of Legal education at the Chambers of a Barrister and Special Pleader. Perhaps there is too much copying, as has been suggested, or rather there was. I suppose that would, in modern changes, be disused. But there was also this—there were constant debatings, there were constant investigations of every case that came into the Barrister's or Pleader's Chambers for his opinion, and looking up of cases; and then the Students, each giving his own opinion upon the case, and saying why he formed that opinion, by referring to authorities; and then the Barrister saying, my opinion is so and so, upon such and such grounds, correcting the errors of the one Student, and approving of the course resorted to by the other. That was the way in which I learnt the Law, together with reading; and if I were to compel anybody to go through any course at all, it would be just that course.

34. Would you say that that was the best course for all persons, indifferently. Is it not a course so entirely devoid of system, that it might not apply very well to persons of only average abilities?—I do not say that alone; but that was coupled with the copying of Precedents and preparing Pleadings, coupled also with reading of elementary books, and reading cases. There was a great deal of reading besides, and copying Precedents, and drawing. And then there was the investigation of all cases sent from time to time into the Chambers, and reading authorities, acquiring the habit of looking up cases and coming to conclusions. Those are the three principal modes; there may be others that do not occur to my recollection. What I mean is, that the many modes by which a Barrister teaches his pupils, and makes his pupils at last fit to practise themselves at the Bar, as far

Sir Fitz-Roy Kelly, Q.C., M.P.

8th June 1854.

as my experience goes, are, I think, the best modes; and that, if you substitute any other for those—that is, any system of education in the way of a College, or anything of that kind—I believe it would not succeed so well. I should like to see what the system is. But I believe, that taking two persons of equal capacities, and letting the one do as he may do now, going for a year to a Common Law Barrister, and six months to a Conveyancer, and the remaining year and a half back again to a Common Law Barrister, you would find that he might turn out perfectly fit to practise at the Bar; whereas, whatever system might be adopted in any School or College of Legal education, you might find another person, of equal capacity, at the end of the time, totally unfit. I do not say that that would be so, but I should like to see the system of education proposed, that I might compare the one with the other, before I could venture to form an opinion upon it.

35. There are two questions to be considered: one is the modes in which that knowledge is to be acquired, which may be various, and there may be different opinions as to the best modes of acquiring the knowledge desired; the other question is, whether there should be a test by Examination, as to whether any knowledge at all has been acquired. Now, will you be so good as to state your opinion with reference to the Inns of Court. In the first place, whether or not you consider that it is the duty of the Inns of Court, receiving considerable payments as they do from persons who are admitted there, to provide facilities for acquiring Legal knowledge; and secondly, whether you consider it desirable, when those facilities have been provided, that the Students should be tested as to whether they have availed themselves of those facilities?—First, as to the facilities, before I answered that question, I should desire to know what facilities were in contemplation.

36. At present, something has been done by the Inns of Court in providing Lectures. Would you wish to see that system extended?—To the extent of the existing Lectures I think the Inns of Court have done well; but, for the reasons I have given, I do not at present think that any extension of the system would be beneficial. If any system of Legal education be in contemplation, by which students could acquire a considerable degree of knowledge in any branch of Law, to be created and set on foot by the Inns of Court, if anything of that kind be in contemplation, I should like to know what it is. To the extent of providing Lectures, I agree that it is well, as far as it goes. They do not occupy much time; they set people thinking upon the particular subjects of the Lectures, and leave them free as to their studies during the rest of the three years.

37. There are many that come to the Bar, whose circumstances are not adequate to enable them to place themselves as pupils with a Conveyancer or Special Pleader. Might it not be desirable, considering that they make certain payments to the Inns of Court, that facilities should be provided for their obtaining Legal knowledge without the necessity of their going to a Barrister or Conveyancer?—I do not think that any system of Legal education could be established by the Inns of Court that could be at all supported by their revenues, at least looking at Lincoln's Inn at this moment. I do not know what might be the cost of any supposed School for imparting this kind of instruction to people who cannot afford to go to a Barrister, but whatever it might be, I do not think the existing funds of Lincoln's Inn would enable them to do that. The expediency of the thing, is one question; the practicability of it, without any funds at their disposal, is another. But if it were anything beyond the 400*l.* or 500*l.* a year which they pay for Lectures, I do not see how Lincoln's Inn could do it, unless they abolished the system of dinners, for example, by which funds would be at their disposal for other purposes; but unless you totally abolished the present system, and applied all the funds to some new mode of education, I do not see how it could be done.

38. Do you think that where compulsory attendance upon Lectures is presented as the alternative to avoid an Examination, it is likely to be very useful?—I quite agree that it might not be; but I do not know how it is in point of practice. I believe the Lectures are well attended, but that is an entirely different question. I think it should be compulsory that the Lectures should be attended, and not be merely put alternatively.

39. Where the alternative is compulsory attendance upon Lectures, without any Examination at all, so that a man may go and sit in the room a certain number of times, and that will be his testimonial for the Bar, is that likely to be very useful?—I have already said that I do not myself think an Examination of any practical use. If people will throw away their time, if, having the opportunity of acquiring learning, they fail to do so, they will never be fit to practise at the Bar; and if they had the good fortune to pass an Examination, they would still never succeed at the Bar. I do not see the mischief of men being called to the Bar who are after all incompetent, whether it is from want of means, or from idleness, or from incapacity, or anything else.

40. Bearing in mind that the being called to the Bar is a qualification for very numerous appointments, such as the County Court Judges, the Colonial Judges, the Revising Barristers, and many other appointments, do not you think that, under these circumstances, it is desirable that persons should not be able to practise, of whom it may be said that they have not necessarily any knowledge of the Law whatever?—I should think that those who have to make the appointments may as well take care that they have testimonials of fitness; generally it is the Judges, and the Judges either know themselves, or have the means of learning, whether any given individual is in any practice, whether he has any practical experience, and has at all distinguished himself.

Sir Fitz-Roy Kelly, Q.C., M.P.

8th June 1854.

41. You think that practice, upon the whole, affords sufficient guarantee of fitness?—I think so. I would only further say, in conclusion, that I am by no means prepared to say that some scheme of Legal education might not be suggested, in which the funds of these Inns of Court, created by the contributions of different individuals who are entered there, might be well applied to afford Legal education to all such as should need it, who become members of the Society. But, before I can pronounce any opinion upon the question, whether that would be of advantage or not, whether it ought to be tried or not, or whether it would be at all likely to succeed, I should ask for some definite scheme; that is, something of this kind: establish Schools in which there shall be certain instructors, who shall, for four or six hours every day, give instruction to the Students; one or other who shall attend during that time at the place in question, and let those persons be paid so much per annum, so that we should know how many instructors of that kind, and what Chambers and Halls and other means and facilities would be established by the different Inns of Court, and what would be the amount of the annual expenditure. Then one would be able to see, first, whether that system of instruction is one that would be likely to succeed better in qualifying a young man for the Bar than the present system of instruction, namely, by his going to a Barrister's and Special Pleaders's Chambers, and so forth; then, secondly, one would be able to see what would be the expense, and whether that expense would be well bestowed; but, thirdly, and principally, we should then see whether the contributions, upon the present scale, that were made by the Students, would enable the Inns of Court to establish and to carry into effect such a system consistently with the other demands that are upon them, and the other expenditure which they are obliged to incur; and again, it would involve a further question, whether the present system of expenditure should be abolished altogether, or in part abolished, and that the funds coming to the hands of the Inns of Court be applied in such a system of general education. But before I can form an opinion, first, upon whether it would be practicable, whether the funds would be ever sufficient, and next, whether it would be fit to abolish all the course of expenditure now adopted, and to substitute the establishment of Schools and Colleges, and thirdly, again, whether the Schools or Colleges so established would be likely to have the effect of turning out better men and fitter to practise as Barristers, I must know the system that is proposed; because all that would depend upon the specific system which is to be proposed; and if anybody would propose such a system, and let me see it in black and white, I should be very glad, if my opinion were of any value, to give it my best consideration. At present, I do not think that any system of Legal education that can be devised will be found better for the purpose than that which is now adopted; either you must continue the system of studying under Barristers, or you must abolish that, and substitute something else; you cannot do both; the funds would not be sufficient for both; the time would not be sufficient for both. If you abolish the present system, I say, at least before you abolish it, let me see what it is proposed to substitute for it.

The witness withdrew.

Mr. Michael Doyle.

Mr. Michael Doyle, examined.

42. You are Steward of Lincoln's Inn?—Yes.

43. How long have you been Steward?—Thirteen years.

44. Can you give the Commissioners a general outline of what the property of the Inn consists; first of all, with regard to what you may call Real property, and then with regard to the payments from the Students?—The Real property consists of the Chambers in the Inn, and one house in Newgate Street, and we have an interest in Furnival's Inn. The rental of the Real and ground rent of reversionary property, bring in altogether about 9,800*l.* a year.

45. Of course there is nothing included in the rental for the property which the Society has in hand, its Hall and Library?—That is not included.

46. Has the Society any property in hand, except its Hall, and the Library, and other buildings connected with it?—Nothing, except the old Hall and the two temporary Courts in which the Vice Chancellors sit.

47. Is there any payment made for those buildings?—No.

48. The Inn provides a Court for the Lord Chancellor, for the Lords Justices, and for the three Vice Chancellors, without payment?—Yes, except that for the Lords Justices' Court the Society receives a rent.

49. What is the rent that they receive for that?—About 130*l.* a year.

50. The other Courts they provide without any rent being paid for them?—Yes.

51. Will you be good enough to explain what "an interest in Furnival's Inn" means?—The Society have granted a lease to the late Henry Peto for ninety-nine years, at a ground rent of 500*l.* a year, and a payment, in lieu of land-tax, of 76*l.*; so that they now receive 576*l.* yearly for Furnival's Inn.

52. The Society of Lincoln's Inn are the owners in fee?—Yes.

53. Have not the Society also a nominal interest in the site of Lincoln's Inn Fields; are they not the reversioners in fee, after a very long term of years?—Yes, 999 years. That is merely to prevent building upon it.

54. Is there any rent reserved upon it?—No rent.

55. Is there any system, with reference to letting the property of the Society's to Members of the Inn?—All the property is viewed by two Masters of the Bench and the Surveyor, and a rental put upon it, and reported to the Council. It is then confirmed by the Council, and the property is put upon the screens, to be let at that rate.

56. Would any difference be made in the price asked of a stranger, as compared with a gentleman belonging to the Inn?—No; Society's Chambers would only be let to Members of the Society.

57. You never, upon any occasion, let to gentlemen of other Inns?—No.

58. Are the Chambers let at a rack rent, or at a rent with a fine?—At a fair rent put upon the Chambers.

59. No fine?—No fine.

60. Are there any Chambers out on leases for lives from the Inn?—No, the Society do not now grant any leases for lives. There are Chambers in Stone-buildings which were built in 1780; they were let for three lives, and for ninety-nine years certain, with a power to nominate a fourth life at the death of the third.

61. Some of those are still out?—Nearly all of them. The Society has not got the property yet.

62. Is any difference made in the rent, as between Benchers and any other Members of the Inn?—None whatever.

63. When you say that a fair rent is put upon the Chambers, is it about the average rent of other Chambers of the same size, or is it somewhat lower?—Rather less than private Chambers.

64. What per-centage?—I should say probably five-sixths of the rent of private Chambers; about one-sixth less

65. Do you mean private Chambers in the Inn?—Yes.

66. You stated that nearly the whole of Stone-buildings is still out on long leases, so that you have no control over the letting of those Chambers?—Yes.

67. But except those, is all the rest of the Inn in the hands of the Society?—Only the old buildings and two or three sets of Chambers in the New Square. The New Square is fee simple property not belonging to the Inn.

68. But such Chambers as the Society possess, they let at five-sixths of the rent for which equivalent Chambers would be let by other parties?—Yes.

69. One-sixth below the market price?—Yes.

70. Are there many Chambers in Lincoln's Inn which are private property?—A great many.

71. Is the fee of that property in the Society?—No, they are fee simple.

72. What is the relation that the Society has to those Chambers?—Merely that by the agreement with Henry Searle, who built the Chambers, they are generally subject to the regulations of the Inn, paying dues of 4*l.* 9*s.* 10*d.* a year. There was a small portion of ground disputed between the Society and Searle. The Society let him have the ground to complete his Chambers, which are at No. 11, granting him six successive lives, and after the sixth life, the Chambers at No. 11 revert to the Society. But upon the other part of the building, not being on the Society's ground, he built Chambers.

73. Does the square in the centre, where the plantation is, belong to the Inn?—No. By agreement, it is to be left open; it belongs to the private Chambers. In fact, the agreement between Searle and the Benchers was, that it should be left open, and not be built upon.

74. As the Chambers belonging to the Society are somewhat below the market price, of course, many parties are anxious to have them. How is the preference determined in letting them?—First to the Benchers, and then to the Bar, according to their standing; and then to the Students.

75. Do they frequently go far below the Benchers?—Yes; constantly.

76. Are you aware of any Deeds under which the property of the Inn is held declaratory of any Trust with reference to the property?—I am not aware of any.

77. How is the property held, as far as you know?—By a Deed, from Suliard to the Benchers of Lincoln's Inn, Sir Richard Kingsmill and others.

78. At what date was that?—It was some time in 1580.

79. Are there any Trusts upon the face of that Deed?—Not that I am aware of.

80. It was conveyed to the then Benchers?—It was conveyed to the Benchers for a sum of money.

81. It is conveyed to them as Masters of the Bench?—Yes; as Masters of the Bench. The Bishop of Chichester contended against the Benchers of Lincoln's Inn, after it became their property, and endeavoured to get it attached to the property of the See, and there was a petition heard before His Majesty Charles II., when it was decided against the Bishop.

82. Was not Lincoln's Inn, at one time, part of the Earl of Lincoln's property?—I believe he had a house there.

83. How was Furnival's Inn acquired by the Society?—I cannot, at this moment, state.

Mr. Michael Doyle.

8th June 1854.

84. What is the house in Newgate-street let for?—It is let for 50*l.* a-year; it is a tavern called the Rainbow.

85. How came the Society to possess it?—Some person left it to the Benchers; some citizen, a cloth-worker, I think it was. We have the Deed of it.

86. Is there any Trust in that Deed?—None whatever.

87. Have you the briefs in that litigation which took place with the parish of St. Andrew's, Holborn, about the Poor-rates?—Yes, I have.

88. Could you, without any difficulty, make out a Tabular statement of the property of the Society?—Yes. I have prepared a Statement, which I will hand in.

89. It appears from this Statement, that the rental of the Chambers, and of the two gates leading from the Inn, is 9,519*l.* 15*s.* 0*d.*; and the ground rents of different parts of the Inn, 775*l.* 15*s.* 6*d.*; that is the ground rents of Furnival's Inn and Stone-buildings?—Yes.

90. Then, Land-tax redeemed 177*l.*?—Yes.

91. That completes the Real property of the Inn?—Yes.

92. Then you have dividends on 3,041*l.* 11*s.* 7*d.* three per cents, 88*l.* 11*s.* 8*d.*?—We have not got that now; we had that.

93. What did that result from?—It was a dividend upon money invested in the Funds out of 40,000*l.* borrowed previously to building the Hall.

94. It was the residue of a sum of money borrowed for the purpose of building the Hall?—Yes.

95. You have also another payment, for Colfer's Lectures, 20*l.*; what is that?—That was for delivering Lectures in the chapel, by the Clergyman; it is not attended to now; there is no congregation. It is paid by a Mr. May; he holds some property subject to that payment.

96. He holds property subject to the payment of 20*l.* to you for Colfer's Lectures?—Yes.

97. But there are no Lectures delivered now?—No. They would be delivered by the Chaplain. The bell used to ring for them thirty years ago, but there was no congregation.

98. Under these different heads, the income derived from property, amounts, after paying the Income-tax, to about 10,000*l.* a-year?—Yes; this is the statement made by the Finance committee (*producing the same*).

99. You have put in a Table, marked No. 1, headed "Extract from the Report of a Finance Committee, presented to the Bench, and confirmed at a Council, held on the 18th day of February, 1851;" and that was, to your knowledge, correct?—It was.

100. Have there been any material changes since that account?—The expenditure is rather less. It was taken into consideration, and reported by the committee, that they could take the average of the receipts at 20,000*l.* a-year, and the expenditure at about 18,000*l.* a-year, leaving a surplus to the Society of 2,000*l.* And an order was then made by the Council to invest 1,500*l.* a-year towards paying off the debt of 40,000*l.*

101. The Society built the Hall in the year 1845?—It was completed in 1845.

102. What did the Hall and Library cost in round numbers?—About 88,000*l.*, including fittings and furniture.

103. Part of the money for the purpose was borrowed?—It was.

104. What is the present debt owing by the Society, in respect of the money that they borrowed?—40,000*l.* There is also a liability, to the amount of 8,400*l.* for deposits, held of members of the Society.

105. A mortgage has been executed of the property of the Society, to secure that 40,000*l.*?—Yes.

106. And that is in the gradual course of payment, by the arrangement you have referred to, of a sinking fund?—Yes. The first instalment of 5,000*l.* will be paid off in a very short time, as soon as the Funds will allow of selling out.

107. Are there any payments now made to the Benchers out of the funds of the Society?—No. There used to be some trifling fees from members, which are now ordered to be abolished. They were paid to three of the officers, the Dean of the Chapel, the Black-book Keeper, and the Treasurer.

108. They were three Members of the Bench, who succeeded to those offices in regular order?—Yes. Together they would amount to about 250*l.* per annum.

109. Have they been recently abolished by an order of the Benchers?—They have. After next year, the gentlemen who serve the office will have no fees. They were abolished about twelve months ago, when Vice Chancellor Kindersley was Treasurer.

110. At present, the Benchers receive nothing out of the funds of the Society?—Nothing whatever.

111. Are the dinners in the Hall, both for the Bar and the Bench, supplied under contract?—They are.

112. There is a sum of money charged to the Students, for their dinners, per head?—1*l.* 8*s.* per Term, for which they are entitled to dine two full weeks.

113. That would be at the rate of 2*s.* a day, the wine included?—Yes.

114. They are allowed a bottle of wine for four?—Yes.

115. Supposing them to dine every day, would that payment be equal to the contract price for the dinners?—No, certainly not.

116. Do you know what the contract price for the Benchers' dinners is?—6*s.* a head.

117. That is not paid by the Benchers?—No; they pay the same as the Bar and the Students.

118. That is 1*l.* 8*s.* per term?—Yes.

119. For which they dine for a fortnight without further charge?—Yes.

120. What are they charged in addition, if they dine beyond the fortnight?—For any other day, they pay 2*s.* a day.

121. The contract for the Benchers' dinners is at the rate of 6*s.* a day, besides the wine?—Yes.

122. The wine is paid for out of the general funds of the Inn?—Yes.

123. If the dinners are calculated at 2*s.* a head, but cost 6*s.*, how is the difference paid?—That is paid out of the funds of the Society.

124. If a Bencher only dines, for instance, one day in a Term, is not he charged more than for the one dinner?—No. He would be charged Absent Commons; he would pay 2*s.* for the dinner, and 2*l.* 16*s.* a year, the same as the Bar, for Absent Commons. The absent dues and the eating dues pay for the Commons in the Hall.

125. And he also contributes to the payment of the Preacher and to the Library?—Yes; 15*s.* 4*d.* a year in addition, for Chapel, &c., and Pensions.

126. Can you make out a Tabular statement of all these particular payments?—Yes; I will do so.

127. Speaking of Absent Commons, it often happens that persons enter at Lincoln's Inn, and do not keep their Terms, and their names remain on for a long time. During all that time, are they charged Absent Commons and the other dues?—Yes.

128. Amounting to about how much per year?—6*l.* 7*s.* 4*d.* under the Bar.

129. And that would go on indefinitely?—Till a Member takes his name off the books. He gives a bond for the payment of these dues, upon his admission.

130. Have the Benchers lately given directions with reference to a payment, in respect of a school for Singing Boys and Choristers in the Chapel?—Yes; and I have received a notice this afternoon, to summon a meeting upon that subject.

131. In conjunction with the Benchers of the Inner Temple, has there not recently been some arrangement on the part of the Benchers of Lincoln's Inn for the establishment of a school for the Choristers of Temple Church and Lincoln's Inn Chapel?—Yes; the expense not to exceed 200*l.* per annum.

132. Has the Society of Lincoln's Inn any interest in the Inns of Chancery other than Furnival's Inn?—None whatever.

133. Among the muniments, have you the Furnival's Inn lease?—Yes.

134. Does it contain any conditions as to Legal study?—I think not.

135. It is a mere lease, as from A. to B.?—Yes.

136. It is a lease for ninety-nine years from 1819?—Yes.

137. In that Finance report of 1851, which you have produced, the whole property of the Inn is included as it then existed?—Yes.

138. The income, as it is here stated, appears to be nearly divided into two equal parts, as between the Real estate and income from Students' payments, &c.?—Yes, as nearly as can be.

139. With regard to the income arising from fees and payments, which amounts to nearly 10,000*l.* a year, that is contributed wholly by Members of the Inn?—Yes; it is for Eating Commons, Absent Commons, Chapel, &c., and Pensions.

140. So that, as far as regards that portion of the income, it is actually contributed by the existing Members of the Inn?—Yes, precisely.

141. What is the Chapel expenditure?—That appears in the statement. There is an addition of about 400*l.* a year to the Master of the Choir.

142. Are there not certain fees charged upon a Member getting his name off the books, by presenting a petition for the purpose?—The fees, on leaving, would be about 9*l.*

143. Here are salaries, 3,601*l.* 9*s.* 10*d.* What are they principally composed of?—Everybody connected with the Inn. For instance, there is the Preacher, the Assistant-Preacher, the Chaplain, the Surveyor, and the Steward.

144. Will you give us a Table of the salaries?—I will do so.

145. What is the period at which the accounts are made up?—The 10th of July and the 10th of January.

146. You have two audits in a year?—Yes; I can very soon send to the Commissioners the accounts up to Christmas last.

147. Do those fees, amounting to 9*l.*, for taking a man's name off the books, still continue?—Yes.

Mr. Michael Doyle.

8th June 1854.

148. Is not one of those fees, a fee to the Master of the Bench, for presenting the petition?—There are fees to the officers, I mentioned before. The Dean of the Chapel has about 2*s.* 8*d.*, the Treasurer has 1*l.*, the Black-book Keeper has 2*s.* 6*d.*

149. Are those fees amongst the abolished fees?—Yes; after next year they will be abolished.

150. At what expense will a person then be able to take his name off the books?—For very considerably less. It is in contemplation, and it is referred to a committee, to take away those fees.

151. Recently those fees were abolished, as payments to the Members of the Bench?—Yes.

152. But they are not at present taken off, as fees payable to the general funds of the Society by the Students?—No. The other fees are divided amongst the various butlers and servants of the Inn. The Society only gets one charge in the case of a Student who has not been called to the Bar; that is 6*l.* for Vacation Commons, which is in lieu of his attending and going through certain Exercises in the vacation. I have another paper, containing a continuation of the other account, in which you will see that the expenses are less and the receipts are less; fewer gentlemen dine in the Hall, and the consequence is, that the receipts are less and the expenses are less.

153. Amongst the payments made by the Members of the Inn for dues, the first item is "Eating Commons, 2,326*l.* 3*s.*" What does that represent?—That is received from gentlemen dining in the Hall; the Bench, the Bar, and the Students.

154. Then the next charge is "Absent Commons, 3,408*l.* 13*s.* 2*d.*"?—That is the Absent Dues; every gentleman is subject to Absent Dues. A gentleman under the Bar pays 6*l.* 7*s.* 4*d.* a year for Dues; 5*l.* 12*s.* is Absent Commons, forming part of that. In the case of Barristers, after three years, the Commons are compounded, and they pay 2*l.* 16*s.* Absent Commons.

155. If they pay Eating Commons, they pay no Absent Commons?—No.

156. For the Eating Commons, they make a payment at the rate of 2*s.* a meal for a fortnight?—Yes.

157. Which they must make, whether they are there or not?—Yes, gentlemen under the Bar.

158. In the case of Barristers of three years' standing the Commons are compounded for?—Yes.

159. The next item is "Vacation Commons 852*l.*" What is that?—Gentlemen leaving the Society, under the Bar, pay 6*l.*, and every gentleman called to the Bar pays 6*l.* on Call, and 4*l.* a year for three years afterwards.

160. Why is it called "Vacation Commons?"—Barristers used to be compelled to attend in the Hall, and to go through certain Exercises. I believe it was a charge made in lieu of that, in consequence of a petition gentlemen presented to the Benchers many years ago; as I understand, that they might be subject to a fine in lieu of attending.

161. Were those Exercises held during the vacation?—Yes, and it is thus called Vacation Commons.

162. Since that, you have had no Exercises in vacation?—No.

163. How long is it since the Vacation Exercises were discontinued at Lincoln's Inn?—I do not know of any for the last hundred years.

164. The next item is "Chapel &c. and Pensions 1,132*l.* 7*s.* 6*d.*" What is the payment made in respect of the Chapel?—Every member pays 15*s.* 4*d.* a year.

165. Is that towards the maintenance of the services in the Chapel?—Yes, and for Pensions.

166. And the fabric?—Yes, and the salaries also.

167. What is meant by "Pensions" in this item?—It is part of 15*s.* 4*d.* which every gentleman pays, being for many poor persons, laundresses and others, having a claim upon the Society.

168. It is to cover donations made to poor servants of the Inn?—Yes.

169. Then "Gowns 110*l.* 17*s.*" that is for Gowns lent to the gentlemen who dine at the Hall?—Yes, 1*s* 6*d.* a Term, each gentleman pays for a Gown.

170. The next item is "Fees 339*l.* 0*s.* 11*d.*" What are they?—Those are the former Stewards' fees, which are carried to the credit of the House.

171. The Steward is now paid by salary?—Yes.

172. Are those fees paid by both Students and Barristers?—Yes, by Students and Barristers.

173. The next item is "ditto per Sir Richard Kindersley 150*l.* 12*s.* 8*d.*" Are those fees, which he returned as Treasurer?—Yes.

174. "Fines on admission to the Society 247*l.*" What are those?—Those are small payments of 3*l.* 3*s.* 4*d.* on admission to the Society.

175. "Fines on Call to the Bar 190*l.*"?—That is a fine of 5*l.* on every gentleman called to the Bar.

176. The next is "Library fines 253*l.*"?—That is paid by gentlemen on being called to the Bar, and Benchers on invitation to the Bench.

Mr. Michael Doyle.

8th June 1854.

177. The next item is "Alienation fines on Chambers 46*l.*"?—That is on transferring Chambers from one life to another. When a gentleman purchases Chambers, they are transferred to his life.

178. Then he may, instead of hiring them at a rent, buy them?—Not from the Society; those are private sets of Chambers. One gentleman buys a set of Chambers of the proprietor; he gives, say 1,200*l.* for a set of Chambers, a first floor; he is a member of the Inn, and as proprietor, petitions to surrender his Chambers from A B to C D. C D is a Member of the Inn, and he petitions also, stating that he has contracted with the proprietor for the purchase of the Chambers, and begs to be admitted for his life. In case of the death of the proprietor, without alienation to some other person, the Chambers revert to the Society, and they will admit the purchaser upon a fine of 10*l.* for the ground and first floor, and 8*l.* upon the second floor, and 6*l.* 13*s.* 4*d.* upon the third floor.

179. And he pays no rent for the Chambers?—No.

180. Those are Chambers which have been originally granted out by the Society for the life of the proprietor, with liberty to alien during his life, and if he dies without aliening they fall to the Society?—Yes.

181. Are many Chambers held in that manner?—Nearly all the old buildings were held in that manner, but now the Society have purchased many.

182. Do they often fall in?—Yes, within the last five years, two sets have fallen in.

183. Was that by sudden death?—Yes.

Tuesday, 13*th June* 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

WILLIAM WHATELEY, Esq., Q. C., examined.

William Whateley, Esq., Q.C.

13th June 1854.

184. You are the Treasurer of the Inner Temple?—I am.

185. I think you have been good enough to prepare yourself with a Statement of the property of the Society?—Yes, I have.

186. Will you mention, in the first place, whether there are any Deeds or instruments under which the property of the Society is held?—Yes, we have a Grant of James I., the effect of which is required to be considered, because it is rather, in all probability, a Grant of confirmation or extinguishment, than an original Grant, under which we hold our property.

187. Does that profess to grant the whole present property of the Inn, or only a portion of it?—The whole, both of the Inner and the Middle Temple.

188. Does it refer to some previous Grant?—It refers to the bounty of former Sovereigns.

189. Is there any objection to a copy being put in?—Not the slightest. It is the wish of the Benchers of the Inner Temple that every possible assistance should be given to the Commissioners in their Inquiry.

190. Is there, in your judgment, any expression of the Trust with reference to the property?—Yes, there is. It is a point which of course the Commissioners will consider, whether having accepted this Grant, we are not bound by the Trust. We consider ourselves, that it is really rather a point of curious law than anything else. We consider ourselves bound by it as a Trust. The Trust is in these words; after describing the property, and mentioning the names of the grantees, it says: "which said Inns, messuages, &c., for ourselves, our heirs, and successors, we strictly command shall serve for the entertainment and education of the Students and the Professors of the laws aforesaid, residing in the same Inns for ever."

191. What are "the laws aforesaid?"—It is by the laws of this country. It refers to a recital in the beginning: "Whereas our realm of England, having been for so many ages exceedingly prosperous in the particulars of peace and war, and having, by the singular providence of God, in his own time devolved upon us by hereditary right, is sensible that great part of its welfare is justly owing to the ancient and proper laws of that realm, tried through a long series of ages, and particularly adapted to that populous and warlike nation, and approved by constant experience."

192. I suppose the original is in Latin?—I have never seen it; it is in Latin. It is under the keys of both the Temples, and is kept under the communion-table, in the Temple church.

193. There would be a copy of this in the Patent Rolls, would there not?—I should think most probably so.

194. That which you have read is the copy which the Society uses for itself?—Yes; but we will take care to have a copy examined, for the purpose of presenting to the Commissioners.

195. With regard to the property, it consists, in a great measure, of Real estate?—It consists of Chambers, and the fees payable to the House, upon Admissions, and Calls to the Bar, and Calls to the Bench.

William Whateley, Esq., Q.C.

13th June 1854.

196. Do you mean Chambers in the Inn?—Altogether Chambers in the Inn; there are no others.

197. Do you possess no other Real property at all?—None.

198. You have no property in the Inns of Chancery?—We have three Inns of Chancery belonging to us.

199. What are the names of the Inns?—Clement's Inn, Clifford's Inn, and Lyon's Inn. Lyon's Inn only pays us a rent.

200. Do they appear to be comprised in the charter?—I think not.

201. Lyon's Inn pays you a rent?—Yes, 7*l.* 13*s.* 4*d.* a year.

202. You have no trace of any Deeds under which those Inns are held?—From the most accurate search I have made, the best opinion seems to be, that in Jack Straw's Rebellion, all our muniments, and documents, and Deeds were burnt out of hostility, not so much to the men of law, it is said, as to Hollis, who was a Prior of St. John of Jerusalem; but they burnt a great part of the Temple, and burnt all our documents; they made a bonfire of them. I found an old manuscript in the Temple, which gives a very curious and graphic account of that fact.

203. You have no Corporation, I think; you are not a Corporate Body?—No, we are not.

204. In whom is the property vested?—In Trustees. There has been a Deed executed from time to time, and there is one now in course of execution. Mr. Keating and myself have executed it.

205. The Benchers are the Trustees?—The Benchers are the Trustees.

206. What Trusts are expressed in that Deed usually?—I am ashamed to say that I did not read the Deed when I signed it. I believe it is merely a Deed of Conveyance to us in fee, because, it will be observed, that that charter is granted to the Benchers, their heirs, and assigns. It is a mere Conveyance, that is all; a Conveyance from Sir Frederick Pollock, the Lord Chief Baron, and Mr. Wyatt, to the present Benchers.

207. Perhaps you will give us the total amount of the rent?—I have brought with me the half-yearly accounts. I have had a summary of the accounts made out for five years. Our income, I am sorry to say, has been decreasing a good deal, in consequence of the altered state of the Profession; so many men have ceased to live in Chambers, whom the railways take out of town; and there are other changes in the business of the Profession. Gentlemen now find it convenient, and more economical, for two or three to take a set Chambers; but I find that in the last year our gross income was 22,365*l.* 11*s.* 10*d.*; the expenditure was 18,881*l.* 17*s.* 8*d.*; leaving a surplus of 3,483*l.* 14*s.* 2*d.* I should say that that is a smaller surplus than we have had for some years before, because I caused this statement of the income and expenditure to be made out for the last five years, thinking that the Commissioners would like to have an average. The average surplus of the last five years is 4,962*l.* 19*s.* 8*d.*, but I am afraid that that would not give a fair result as to what it is now.

208. Are you able to distinguish the amount of rent from the amount of fees?—Yes, I can do that. The accounts are made up half-yearly. In June 1853, the income arising from Admissions, Calls to the Bar, Commons, &c., was 4,322*l.* for the half-year, that half-year comprising three Terms; therefore, the amount is much larger. The rents received for the half-year were 8,411*l.* 6*s.* 5*d.*, making the whole income for that half-year 12,733*l.* 14*s.* 6*d.* Then there is the general expenditure of the House, 7,196*l.* 4*s.* 1*d.* The general repairs of buildings, Chambers, &c., 2,747*l.* 5*s.* 3*d.* Annuities, 392*l.* 13*s.* 6*d.*

209. What are those?—Those are annuities in lieu of Chambers, let to lifeholders, where they have been pulled down; that is, where gentlemen had an estate for life in the Chambers, and they were pulled down, they commuted them for annuities, and so they fell in. That makes a total of 10,336*l.* 12*s.* 10*d.*, and there is a balance in favour of the income of the half-year to the 30th of June 1853, of 2,397*l.* 11*s.* 8*d.* This is a statement of the income and expenditure of the Society for the half-year ending the 31st of December 1853. Income received for Admissions, Calls to the Bar, Commons, &c., 1,549*l.* 7*s.* 1*d.* Rents received, 8,032*l.* 10*s.* 3*d.*, making a total of 9,631*l.* 17*s.* 4*d.* The general expenditure of the House was 5,630*l.* 2*s.* 9*d.* Repairs of buildings and Chambers, 2,522*l.* 18*s.* 7*d.*, and Annuities, 392*l.* 13*s.* 6*d.*, making a total of 8,545*l.* 14*s.* 10*d.* Balance in favour of income for the half-year, 1,086*l.* 2*s.* 6*d.* And then comes the statement for one year, ending the 31st of December 1853, adding the two half-years together. Income, 22,365*l.* 11*s.* 10*d.* Expenditure, 18,881*l.* 17*s.* 8*d.* Balance in favour of income for one year, ending the 31st of December 1853, 3,483*l.* 14*s.* 2*d.*

210. You have no debt?—I am happy to say, for the first time for a number of years, we are out of debt.

211. Will you state the date of the Society being out of debt?—We were out of debt last Christmas, and not till then, the 31st of December 1853. Perhaps the Commissioners will allow me to say what was the cause of our being in debt. It was this; we were obliged to rebuild a great number of buildings, and I have caused an account to be made out of the cost of buildings from the 21st of May 1824 to the 30th of June 1853, and I find, that during that time, we have actually expended in building, above 179,619*l.* 15*s.* 11*d.* I have here an account of the different buildings.

212. How much is the cost of the Temple Church?—The Temple Church is not included

William Whateley, Esq., Q.C.

13th June 1854.

in that total. This sum was expended in building the Chambers alone; that is to say, there is Harcourt Buildings, Paper Buildings, the lower part of Kings' Bench Walk, and the Hall and the Library, and the Terrace Buildings, and all those; I have them here: Tanfield Court, New Library, and Parliament Chamber, 30,979*l.* 10*s.* 3*d.*; fixtures in ditto, 52*l.* 1*s.* 6*d.*; Kings' Bench Walk, 20,255*l.* 15*s.* 6*d.*; Mitre Court Buildings, 27,680*l.* 3*s.* 8*d.*; fixtures in ditto, 111*l.* 8*s.* 9*d.*; Harcourt Buildings, 31,143*l.* 13*s.* 8*d.*; Kings' Bench Walk, 5,339*l.* 16*s.* 10*d.*; ditto, 6,513*l.* 8*s.* 2*d.*; refitting Hall, Parliament Chamber, 1,228*l.* 3*s.* 8*d.*; Nos. 1, 2 & 3 Paper Buildings, 30,022*l.* 11*s.* 2*d.*; fixtures in ditto 190*l.* 6*s.* 9*d.*; Nos. 4 & 5 Paper Buildings, 26,102*l.* 15*s.* 10*d.* Total expense of new buildings, 179,619*l.* 15*s.* 11*d.*

213. Is the whole of new Paper Buildings in the Inner Temple?—Yes, and then there is the purchase of Chambers from 1824 to 1853; that is, Chambers that had been held by parties who had died, which were purchased by the Benchers. At one time, the Benchers thought it advisable to get into their hands, by purchase, a great many Chambers, but we have ceased to do so; they laid out 57,041*l.* 11*s.* 3*d.* in the purchase of Chambers. At that time there was a great demand for Chambers, insomuch, that it was a rule of our Society that no gentleman should have more than one set of Chambers. The repairs of the Church in the years 1826, 1827 and 1828, that is, before it was restored, cost 11,385*l.* 5*s.* 4*d.*; that is the Inner Temple portion alone; and in the years 1840, 1841, 1842, and 1843, the Inner Temple portion cost 26,784*l.* 13*s.* 5*d.*, making, as regards the Church alone, 38,139*l.* 18*s.* 9*d.*

214. Did the Middle Temple contribute towards the Church as well?—Yes, they paid a little more, for certain reasons, which the Treasurer of the Middle Temple will be able to give you; it cost them a little more.

215. The Church must have cost, including the repairs and restorations, about 80,000*l.*?—Yes, the restoration cost, in round numbers, 52,000*l.* or 53,000*l.* not more than that.

216. Including all the expenses for repairs before?—Yes; but I have no doubt Mr. Justice Coleridge remembers very well what it was before, and what it is now, and certainly it does show what a beautiful building it is; it went on bit by bit. I think the first estimate I saw of it was between 4,000*l.* and 5,000*l.* for repairs; but what was done, amounted finally to the sum I have mentioned; then I should add annuities from 1828 to the 30th of June 1853, 18,142*l.* 1*s.* 4*d.*, and then there were the general repairs, which amounted to 100,000*l.*

217. What have you usually done with your surplus; has that been employed in this manner in building?—Yes, and we borrowed money from time to time from our bankers, and repaid it out of our surplus; but then a question may arise as to the surplus now. I am sorry to say, that we shall in a very short time be obliged to pull down a great number of buildings which have been condemned as hardly safe; for instance, Fig Tree Court, Farrar's Buildings, the upper part of Kings' Bench Walk, Hare Court and Inner Temple Lane, and I have a rough estimate of that. I caused Mr. Smirke, our architect, to look over the buildings and to report. Our idea was, that it would cost 95,000*l.*, but he says that we must add 25 per cent. to that, and therefore it may be said, that we shall have, in a few years, to lay out at least 100,000*l.* or 120,000*l.* in rebuilding places that must come down, or they will come down of themselves.

218. But you do not get 5 per cent. for your money that you lay out in building?—I should think, about 6 per cent.

219. What course is pursued by letting the Chambers?—When Chambers, belonging to the Inn, are vacant, a notice is put up in the Treasurer's Office, and notice is sent round periodically to all gentlemen who have notified that they want Chambers, according to their seniority; and if a gentleman of ten years' standing says, "I should like these Chambers," he has them, unless a gentleman of twelve years' standing should require them.

220. Have you any fixed plan upon which you proceed in fixing the rental?—Yes, our plan is, that we always endeavour to fix the rent at 10 per cent. below what private individuals do, not so much from a desire to be first in the market, but because we do not wish to put our Chambers at an extra rent. And moreover, about three or four years ago (I think in 1850), we had a general examination of our rents, and we lowered the whole of them upon the average 7½ per cent., or at least, those that required it.

221. Are there any Chambers in the Inn belonging to private individuals?—Yes, they only hold for lives.

222. Is it a grant for life from the Society?—A life and a renewal, I think.

223. On fine?—Yes.

224. Then you have some criterion, from the price at which those Chambers let, what should be the proper rent for your own?—Precisely so. I have been on the Chamber Committee for some years, and when I go with the Under Treasurer to fix the rent, I find what is the rent of Chambers belonging to individuals in the same situation, and if we found that the rent was 100*l.* a year, we should put ours at 90*l.* a year.

225. Have the Benchers any privilege with respect to Chambers?—Yes. There are twenty-six sets of Chambers, which are called Bench Chambers, to which the Benchers are presented in order of seniority after they become Benchers, and it is a curious fact, but so it is, that upon searching our records, I find that there were exactly the same number of Bench

William Whateley, Esq., Q.C.

13th June 1854.

Chambers appropriated to the Bench in the 30th year of Queen Elizabeth, in the year 1588, as there are now.

226. Has there been alteration since that time?—They have been diminished and raised up again to that point, but they have never exceeded that number, and we have twenty-six now. It ought also to be stated, that in former times, it does not appear that any sum was paid by the Benchers, when they became Benchers, but I have an account, which begins in 1823, containing the names of all the Benchers from that date, who paid 100*l.* on their Admission as Benchers, and so it continued till the year 1839, and then the Benchers passed a resolution, that all Silk gowns should for the future pay 310*l.*, and all Stuff gowns 210*l.*, and that resolution continues in force up to the present moment.

227. Do the Silk gowns take precedence of others, as to Bench Chambers, or is it simply regulated by seniority?—It is simply regulated by seniority. The Benchers, when Bench Chambers fall vacant, take them, according to their seniority; but it happens sometimes, that gentlemen succeed to Judgships before they get Chambers; and certainly there is one instance, and a very late one, where a learned Judge on the Bench was a Bencher about a fortnight, and paid 210*l.* for the honour of being a Bencher; that is Mr. Justice Crompton; or they may die before they get Chambers.

228. Do they lose Chambers when they become Judges?—Yes, and they go to Serjeant's Inn, and then lose Chambers.

229. They hold them otherwise for life?—Yes.

230. And gratuitously?—Yes.

231. Are there specific sets of Chambers?—Yes, they do not vary at all; they are Chambers known as Benchers' Chambers, and they vary of course in their value, some being less than others.

232. So that a Vice Chancellor, or a Lord Chancellor, or a Lord Justice would hold his Chambers?—Yes. Lord Langdale held his Chambers up to the day of his death.

233. Every Bencher has been for a considerable time a Member of the Society before he takes his Chambers?—Yes, ours is a very favourite Society, and gentlemen upon the point of applying for Silk gowns, used to change from other Inns to come to the Inner Temple. There was a rule passed, some years ago, and still in force, that no gentleman can change from any other Society after he is called to the Bar.

234. Does that rule which you have made, apply to the other Inns?—I don't know; it does apply to the Inner Temple.

235. You do not confine your Admission to the Bench to Silk gowns?—No, we may admit some Stuff gowns.

236. Do you ballot for all Silk gowns?—Yes.

237. What is the mode of election?—The mode is this. When a gentleman notifies to the Bench that he has a Silk gown, if any gentleman wishes to have him proposed as a Bencher, he proposes that on such day there shall be a Call to the Bench, and then if the gentleman is proposed and seconded, he is balloted for; if he is not proposed, or if he is proposed and not seconded, nothing further takes place: then he is not balloted for.

238. What course is taken if he be not a Queen's Counsel?—Precisely the same.

239. Usually, I suppose, nobody is elected as a Bencher who is not of a considerable number of years' standing?—The Silk gowns, of course, tell their own tale; the other gentlemen are sometimes far advanced in life.

240. And have contributed, of course, a long while to the Inn?—Yes.

241. You have a large sum for repairs, and you spent a large sum when the fire took place. Do you not require those who take Chambers to repair or insure?—No, we do both ourselves.

242. Does the Society actually insure, or are they there own insurers?—We had a building fund, but when we were very much in debt, it was thought not an economical thing to be paying large interest to our bankers and to have this sum of money, and therefore we paid it to the bankers; but, in point of fact, we do actually insure for 155,000*l.* at the present moment.

243. Do the Benchers receive any other emoluments; have they any fees paid to them?—None whatever, excepting the Treasurer. There is a fee still payable to the Treasurer I believe of 100*l.*, and there are very trifling sums payable of 2*s.* 6*d.* and 5*s.* upon Admission and Calls to the Bar; I believe those are the only fees that remain.

244. With regard to the Inns of Court, I should like to know what your researches have led you to discover as to their authority over the three Inns of Chancery?—I cannot find anything satisfactory with regard to the Inns of Chancery.

245. What do they hold them by now?—We have no document to show that.

246. You know simply the fact that a rent is paid by the Inn?—Yes, simply the fact that a rent is paid by one Inn.

247. What connexion is there between them?—We simply appoint Readers who go there and read a Lecture once a year.

248. Have they been received lately by the Inns of Chancery?—Yes, they were rebellious for some years, but the rule of our Society is, that we choose the three senior Barristers next in rotation, and send them to the Inn, and they take one. This year we sent the name of a gentleman to Clement's Inn, whom afterwards we could not find, and therefore he could not read. Lyon's Inn said we have no Students, and therefore we do not require any Lecture.

William Whateley, Esq., Q.C.

13th June 1854.

249. Do you continue the practice of granting leases for lives?—We do not.

250. As they drop in, you retain them, and let them out at a rent?—Yes, our tenure is for twelve months, but the occupiers are never turned out if they pay their rent, unless the Chambers are required for some special purpose.

251. The Chamber is only let in fact for twelve months?—It is only let, in fact, for twelve months. A notice of three months is required on either side. The occupier can give the Chambers up at three months' notice, and we can turn him out at three months' notice.

252. If a tenant for life assigns, the assignee does not hold for his life, as he does at Lincoln's Inn, does he?—We should require of course a life of the same age.

253. You would allow it to continue, if the party chose to do so?—We have no power to prevent it, I believe.

254. Is it perpetually renewable?—No; it is only for one life, I believe. I should be glad, upon some occasion, to give the Commissioners a short summary of the mode in which the Temple property has been held, because it would be wrong to suppose that we hold under that Grant of James the First, or rather that our property began with that Grant, because it certainly was not so. Our Commons cost us 1,000*l.* a year, that is to say, we give more than we get paid for.

255. Then, in fact, that 1,000*l.* a year, when you say you give it, is not for Absent Commons?—No, I mean that the actual expenditure upon our Commons is 1,000*l.* a year more than we receive from the men who eat their dinners.

256. Then that 1,000*l.* is supplied from Absent Commons?—Not in this case; we do receive Absent Commons, but it does not come into this account of what we pay. I have an account here from 1834 down to 1853, of what we received each year for Commons, what we paid for the Commons, the cost price, and what we paid for the wine which we give the Barristers and Students.

257. Has the Under Treasurer a list of the value of each set of Chambers appropriated to the Benchers?—Yes, the lowest amount is 60*l.*, and the highest 120*l.*

258. If those buildings that you speak of were erected, would the Chambers be likely to be taken?—I should think so. But we have more vacant Chambers now than we have had formerly.

259. There have been a good many Chambers vacant on account of the professional gentlemen now working at home?—Yes, and in consequence of their living out of town a good deal. They live in the neighbourhood of London, where the railways take them.

260. In case of the rebuilding of those new buildings, do you think there would be a demand for all the Chambers?—I am always in hopes of being able to diminish our rents when we get any money in hand, because one of the objects most useful to the Profession, would be to lower the rents and extend the Commons, to give men an opportunity of meeting oftener, having a plain good dinner at a reasonable cost; so that they might, as they do in the Universities, meet more together; for I am one of those who think that it is of great use to men to meet in that way. The inter-communication of ideas is, I think, a very useful thing. At present our rents are certainly high, though not so high as some of the other Inns of Court.

Mr. G. Bryant.

Mr. George Bryant, examined.

261. You are the Under Treasurer of the Inner Temple?—Yes.

262. How long have you been so?—I have been about two years and a half Under Treasurer. I have been in the office about thirteen years.

263. The Statements, which have been made by Mr. Whateley were prepared by you?—Yes.

264. The items of expenditure were given to us by Mr. Whateley. You can give us the items a little more detailed, perhaps?—I can. I have them here for five years.

265. How are they divided there?—There is the general expenditure of the House: that embraces the payment of salaries and the general domestic expenditure; and there are the repairs of Chambers and Annuities. As Mr. Whateley has told you, those annuities are to gentlemen who have held Chambers upon their lives, and when the Chambers were pulled down, the Annuities were granted to them.

266. The general expenditure of the House, which amounts to 7,196*l.* 4*s.* 1*d.*, includes, I suppose, the expenditure in the Hall?—The account will speak for itself; it will show you the whole amount of the expenditure for one half year.

267. This is an account of the income and expenditure of the Inn from the 31st of December 1852, to the 30th of June 1853, both inclusive. I find that under the head of salaries and allowances, the total is 2,475*l.* 9*s.* 2*d.*; that is divided into the Church, 336*l.* 11*s.* 8*d.*; the Master, the Reader, the Organist, and the various heads of expenditure amounting, for the whole year, to 658*l.* 19*s.* 4*d.*; then you have the expenditure of the Library, which includes the Librarian, Assistant Librarian, and a man in attendance, that is 370*l.* 4*s.*?—Yes.

268. Does that include the purchase of books?—No, salaries only.

269. Then you have the salaries of the office, which include the Sub-treasurer, a Clerk, and two assistant Clerks, and Messengers and Collectors. The total salaries of the office

Mr. G. Bryant.

13th June 1854.

are 1,432*l.* 3*s.* 9*d.*; and then the Kitchen salaries are 278*l.*, and the Garden 124*l.* 12*s.*; the Watch 826*l.* 10*s.*, that seems very heavy for the Watch?—There are eight Watchmen, a Superintendent, and Inspector, two Warders, and a Head and Under Porter.

270. What functions do they perform?—They guard the Temple property generally.

271. Are there day and night Watchers?—Yes.

272. Are there any instances of depredations being committed at the Chambers?—Very few; there have been some.

273. Is it part of the duty of the Watchers to keep a watch?—Every door in the Temple is tried six times between four o'clock in the afternoon and six o'clock in the morning. It is the duty of each Watchman to go up his staircase three times, there being two Watchmen during the night.

274. Do they go at irregular hours?—Yes, at irregular hours.

275. The salaries of the Hall amount to 1,279*l.* 18*s.* You have fifteen Waiters, I see; —Yes.

276. Are not the Watchmen presided over by a Police Inspector?—He was in the Police force. He is our own servant; he is not a sworn constable; and there is an Inspector also.

277. He does not belong to the City Police?—No; they have both been in the Metropolitan Police, but they are not sworn constables.

278. How many Students usually dine in the Hall?—That I can hardly tell without referring to the book. We keep a daily account of that. I dare say there are sometimes twenty-two or twenty-three messes of Students; the messes are messes of four; and there are perhaps eight or nine Barristers' messes. I dare say you might average the Hall, Benchers, Bar, and Students, at about 100. The exact number on an average of one year, is sixty-one.

279. There are more in Michaelmas and Hilary Terms, I suppose, than in the two summer Terms?—Yes.

280. This paper contains the total salaries, amounting to nearly 5,000*l.* a year?—Yes; the amount that is actually received here and set down as received for Commons and paid for Commons, is the actual amount received for eating and drinking, irrespective of what are termed Pensions and Preacher's duties.

281. That is for one year, is it?—I have taken the statement here from 1834 to the end of 1853, and the amount received for Commons for those thirty years was 34,187*l.* 6*s.* 7*d.*; the amount paid for Commons was 40,037*l.* 9*s.* 11*d.*; and to be added to that, is a sum of 15,345*l.* 0*s.* 5*d.* for wine, so that the Society paid about 21,000*l.* more than they actually received during that time.

282. Does that include the payment made for Absent Commons?—No.

283. They are the actual payments for feeding?—Yes.

284. That includes the Bench dinners?—Yes.

285. Is it the practice in the Inner Temple, as it is at Lincoln's Inn, to charge a certain definite sum to every Student for his Commons, whether he dines in the Hall or not?—No; Students, and the Bar, and Benchers not dining, are charged Pensions and Preacher's duties. A Student pays 16*s.* 4*d.*, a Barrister 19*s.* 8*d.*, and a Bencher 1*l.* 3*s.* 10*d.* a year.

286. And over and above that he pays for his dining?—Yes.

287. If a man eats his three dinners, he is reckoned as dining a Term?—Yes.

288. Then you charge him for the whole Term?—It is done in this way. A Student dining three days or six (for it is an advantage to a man to be at liberty to dine only three days), is charged 1*l.* 1*s.* for his Term, and 1*s.* 3*d.* for what is called the Roll, that is, for entering his name in the book, I suppose. Then a Student pays 4*s.* 1*d.* a Term for what are called the Preacher's duties and Pensions. These (*producing the same*) are the forms of the bills that we deliver to the Students.

289. That sum which you mentioned covers his dining?—Yes.

290. How many days may he dine for that guinea?—Six days.

291. If a man wishes to dine every day in the Term, what would it cost him?—Since the Legal education has commenced, there has been an alteration in the dining. A man used to dine two days in each of two full weeks, and he was then charged a guinea. The charge for dining now is 17*s.* for a full week and 18*s.* for a grand week, 10*s.* for half a week and 11*s.* for half a grand week; so that if he dined three full weeks, it would be 2*l.* 11*s.* If you take the fees, the dinner would cost about 3*s.* a head.

292. With that you are still out of pocket considerably?—Considerably. There is half a pint of wine allowed, and beer.

293. Does that amount which is paid for Absent Commons make up the deficiency of charge for Commons generally?—We have no such term as "Absent Commons" in the Inner Temple. It is Pensions and Preacher's duties.

294. They are pretty much of the same nature, are they not?—Yes, I suppose so.

295. No Pensions and Preacher's duties are charged against men who dine; but if a man does not dine at all in the Term, then he is charged?—He would only be charged the Pensions and Preacher's duties. The only charge against a Student, if he does not come near the Society for twenty years, would be at the rate of 16*s.* 4*d.* a year, and for a Barrister 19*s.* 8*d.* a year.

296. Those payments would not make up any of the deficiency, as to the extra expenditure for Commons, more than you receive, or, at all events, they would go but a short way towards it?—Yes, they would tend considerably to help it.

Mr. G. Bryant.

13th June 1854.

297. To what extent?—In 1853 we received 690*l.* 16*s.* 8*d.*; this year we shall perhaps receive rather more.

298. For the whole year?—Yes, for Pensions and Preacher's duties.

299. When a Student comes to the Bar, he makes a deposit, does he not?—If he is not a member of either of the Universities of Oxford, Cambridge, London, Dublin, or Durham, he does; he makes a deposit of 100*l.*, besides his fees.

300. Upon his being called to the Bar, is that deposit returned?—Yes.

301. It is merely by way of security?—That is all.

302. Does he enter into a bond as well?—A bond, with two sureties, in the penalty of 50*l.*

303. That he does in the same way as other gentlemen who have been at the Universities?—Yes.

304. Is there any interest allowed upon the deposit?—No.

305. Is there any difference in the Inner Temple as to the time of Call of different persons?—No; the Inner Temple call all persons after they have kept twelve Terms.

306. Have you now any Examination?—There is no Classical Examination now.

307. How long has that been given up?—It was given up in 1847.

308. Do you know why?—No, not exactly. I have heard some gentleman say that it was rather invidious; some liked it, and some did not.

309. The Inner Temple was the only Inn that required it?—I think so.

310. You were speaking of the expense of the Library offices: is there any fund for the purchase of books?—No actual fund; there is no charge upon the Students or the Barristers.

311. Are you aware of the Inner Temple having joined with Lincoln's Inn lately in contributing to the maintenance of the singing boys at the Chapel?—Yes.

312. To what extent?—100*l.* a year.

313. It is limited to 200*l.* altogether?—Yes.

314. I think Mr. Whateley mentioned that the three Inns of Chancery were Clement's Inn, Clifford's Inn, and Lyon's Inn?—Yes.

315. Do you receive that 7*l.* 13*s.* 4*d.* a year regularly from Lyon's Inn, which was referred to by Mr. Whateley?—Yes.

316. What is it called—how do you enter it yourself?—"Lyon's Inn and two tenements adjoining: The Inn, 4*l.*; two tenements adjoining, 3*l.* 13*s.*4*d.*=7*l.* 13*s.* 4*d.*"; less the Property Tax.

317. Do you know anything of the two tenements adjoining?—No, I do not. I have an impression that they were houses adjoining the Inn.

318. They belonged to Clifford's Inn?—To Lyon's Inn. They must belong to the Inner Temple; they are held by Lyon's Inn.

319. You do not even know what they are?—No, I do not.

320. The traces of this payment exist for a long while back, I suppose?—Yes.

321. Besides the salaries to the Librarians and others, you have spent upon an average 600*l.* or 700*l.* a year in books for the Library?—Yes.

322. Out of the general funds of the Society?—Yes.

Adjourned to Thursday next, at 4 o'clock.

Thursday, 15*th June* 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

WILLIAM WHATELEY, Esq., Q.C., further examined.

William Whateley, Esq., Q.C.

15th June 1854.

323. We have gone through the whole detail of the income and expenditure of the Inner Temple; we should now like to ask you some questions with reference to the system of Education as it at present exists. You are aware of the recent changes which have taken place, to which the Inner Temple has contributed; have you formed any judgment with regard to the effect, as far as it has gone, of the system adopted, of Lectures, with voluntary Examinations?—I think the system has proved beneficial, as far as it has gone; the Examinations have been better as they have gone on, and I think they will improve still further.

324. So far, you approve of what has been done with reference to affording education?—Certainly.

325. Do you conceive that any further steps may be taken in the same direction, towards affording an improved education to the Students of the Law?—I should be very glad to make every possible improvement that would insure a greater amount of knowledge to men who are called to the Bar, but it is a very difficult question.

326. You had at one time a preliminary Examination for admission to the Inn, had you not?—We had.

327. That has been abandoned?—Yes.

328. Did you not abandon it on the ground of the failure of the thing itself?—No; I think the Examination was most beneficial.

William Whateley, Esq., Q.C.

15th June 1854.

329. You did not find that the Examination had the effect of deterring gentlemen from coming to the Inn, but rather the contrary?—I think it deterred a certain class from coming to the Inn. I think it deterred men who had not received a good sound classical education, and the consequence was, that we had a greater proportion of University men; and that has continued down to the present time.

330. Did the numbers decrease after the Examination was instituted?—I am not aware.

331. When did you say that they did increase?—After the abolition of the Examination, they rather increased.

332. The Examination was very slight, was not it?—Very slight; it was merely to show that a man had a competent knowledge of Latin and Greek; and if a man had some quantity, you would suppose that he had more. I remember once having to examine a gentleman, and, from the answers which he gave to my questions, I felt very glad that he was not going to examine me. He was a gentleman who took honours at Oxford. It was inconvenient to him to come up to London, therefore, on the Commission day of the Assizes at Oxford, I examined him.

333. Have you formed any opinion upon the effects of a compulsory Examination for admission to the Bar?—I cannot say that I have formed any decided opinion; my mind has wavered a good deal upon the point. It has been a question frequently under discussion at the Bench of the Inner Temple, from the time when I first joined the Society as a Bencher, which was in 1841, down to a very late period; and certainly, some of our most eminent men have been against a compulsory Examination.

334. Was the reason of their objections to the Examination, that it would have a tendency to deter gentlemen from coming to the Bar, who intended to live in the country?—That, I think, was a very strong reason. It was urged, I remember, by two or three very eminent members of our Bench, that that, in all probability, would be the effect of it, and if it were, it would produce a greater injury than the Examination would do good.

335. Have you ever thought of the subject of the division of Barristers, on their being called to the Bar, into two classes, namely, those who should be admitted to practise in the Courts, and those who should be called, without a certificate of fitness, to practise?—No, I never have.

336. Do you think it would be possible so to divide the Barristers, and to admit those to practise who subjected themselves to a voluntary Examination, and passed it creditably?—I have never considered that question; it is quite new to me. I have never heard it suggested till the present moment, and I should be glad to have an opportunity of considering it before I give an opinion upon it. I know that in the very early records of the Temple, there was something like what the Solicitor-General has alluded to, in this way, that men, when called, were not admitted to practise in the Court till they had been a certain time at the Bar.

337. Are you aware that that rule continues even now at Doctors' Commons?—I was not aware of that; I think some of our earlier records state that men shall not be admitted to practise until they have done a certain number of Moots; there were what are called inner and outer Barristers.

338. Independently of the objection which has been stated, of deterring parties from coming to the Bar by an Examination, considering that we now have compulsory Lectures, do you conceive that the full benefit can be derived from attendance on the Lectures by anybody who is not also subject to an Examination upon them?—I think not. I think that a man who knows that he is to be examined upon the Lectures, would attend more diligently to the Lectures; I think that you must have something more than the mere Lectures, if you are to have a man examined. You must have a course of study laid out, and you must have something more like the domestic Lectures that they have in the Universities, if you mean to examine the men upon them afterwards; at the present moment, I believe, the Lectures in the Inner Temple are of great use; Mr. Broom, a most eminent man, gives Public Lectures in the Hall, but they would be comparatively useless, if he did not take infinite pains with his pupils in his Private Classes.

339. Is not there great reason to apprehend that unless the Lectures be accompanied by an Examination, compulsory attendance upon them may dwindle away into a mere nominal attendance, like the attendance upon the dinners?—Yes, I think so. I may observe, that in Lincoln's Inn, the Exercises have dwindled away. When I was a Student, I used to be marched up to the Barristers' table, with a paper in my hand, and I said, "I hold the widow—" the Barrister made a bow, and I went away; and the next man said, "I hold the widow shall not—" and the Barrister made a bow, and he went off; and that was the remnant of performing the Exercises.

340. Has any other mode suggested itself to you, of rendering Legal education more effective?—I am a very strong advocate for a preliminary Examination, as respects general information, before a man is admitted as a Student. As far as my opinion goes, I think that a previous Examination, to prove that a man has had a liberal education, would have excluded almost all the objectionable men that I have ever known at the Bar.

341. Would you extend that examination to those who have taken College Degrees?—I would not except any, because it would be no hardship upon them. I would not take any certificate from any one else, but I would have a Board of Examiners appointed by the

William Whateley, Esq., Q.C.

15th June 1854.

Inns of Court, and if a man wished to become a Student, he should put down his name, and be examined, to show that he has had a liberal education.

342. Should that Examination be directed to Classical literature, or should it be directed especially to moral philosophy, logic, and historical knowledge?—That would be a question for consideration, but I should certainly include Classical literature.

343. Then a man might get plucked, who had perhaps taken Honors at Cambridge?—It is possible.

344. You would include Latin and Greek?—Certainly Latin, and I should say Latin and Greek. I believe that it is of great importance to the Profession to make it a gentleman's profession, and to make its foundation a liberal education.

345. Have you at all thought whether any system of more combined action could be adopted, on the part of the Inns, which have already combined to a certain extent?—I believe it would be very beneficial. I think it would give a greater control over members of the Profession, and more unity of action. I should like to have some person in a similar situation to the Dean of Faculty in Scotland, some one who should be at the head of the Profession.

346. That is generally understood now to be the place filled by the Attorney-General?—The office of Attorney-General is not, I think, equal to the situation which a person in as Dean of Faculty would hold. The Attorney-General has not the same influence, but if the four Inns were connected together, like four large Colleges, constituting one Legal University, and some one were placed at the head of it, to act in the capacity of the Dean of Faculty in Scotland, I think it would be very beneficial. There is an approach to this combined action in the case of the Council of Legal Education, and in the resolution of the four Inns to act in concert.

347. How would the law stand as to the power to impose anything like a stringent preliminary Examination, considering that there is no other mode by which persons can come to the Bar than through the Calls from the different Inns. With regard to the examination of Attorneys, that is the result of an Act of Parliament?—I have not considered that question, but I am sure it would be worth an Act of Parliament, if it required one.

348. That is a power that the Inns have been always assuming?—Yes.

I have some information to offer to the Commissioners with reference to the early history of the Temple, and their property, which is important, because a very general opinion has prevailed that the Temple owe their property, and all that they have, to the Grant of James the First. Now, nothing, in my humble judgment, is more inaccurate. It appears, by the best information which I have been able to obtain, that the men of the Law, as they were called, have been in the Temple since the reign of Edward the Second. Upon the dissolution of the Knights Templars they made a composition with the Earl of Lancaster, to whom the Temple had escheated, for a lodging there, and they have continued in the Temple from that time, that is to say, from the year 1315.

349. Where do you collect that information from?—Partly from an old Manuscript that is in the archives of the Temple, amongst Petyt's Manuscripts, and I also find that the same thing is alluded to in Dugdale, and in Herbert's Inns of Court. It is also mentioned in a book of considerable research, and very considerable ability, written by Mr. Charles Addison, of the Inner Temple, "On the Knights Templars and the Temple Church." The Earl of Lancaster was afterwards executed for treason. The Temple was then granted by Edward the Second to Aymer De Valence, Earl of Pembroke, and, on his death, it reverted to the Crown, in the 17th of Edward the Second. In that year the property of the Templars was conferred by Act of Parliament upon the Hospitallers of St. John, who were then becoming a very powerful body. "That Act" (says an old Manuscript) "passed against the opinion of the then Judges of England, and, with great reluctance, both on the part of the King and of divers Lords of this kingdom, of whom the lands of the Templars were holden, and who claimed the same as escheated to them by the dissolution of that Fraternity or Society, as in part appears by the tenor of the Act itself." But while that Act of Parliament was passing, Edward the Second granted the Temple to his favorite, Hugh Le Despencer. In 1326 he was put to death by Queen Isabella, and Edward the Third then seized the Temple as forfeited by his attainder. In the 6th of Edward the Third, that is, in 1333 the King committed the custody of the Temple to William de Langford, and farmed out the rents to him for ten years. In the 10th of Edward the Third, 1337, the holy places were given up to the Hospital of St. John, the residue remaining with William De Langford. Then, a few years afterwards, in the year 1340, the residue of the Temple was granted to the Prior and his brethren of St. John of Jerusalem. Now comes a very important thing. In the 20th of Edward the Third, the Hospitallers were in the quiet possession of the house called the New Temple. I dare say the Commissioners are well aware that the old Temple, which was situated where Southampton Buildings now are, was removed from thence. "They farmed the same out by the name of their Mansion, or Manor place of the New Temple, unto divers Professors of the Common Laws of this realm, who are supposed to have come from Thavie's Inn, at the yearly rent of 10*l.*; ever sithence which time, they and their successors, Professors, and Students of the Common Law have there resided;" and, what is more remarkable, that sum of 10*l.* was always paid, down to the time when it was purchased by the Temples, in the reign of Charles the Second.

William Whateley, Esq., Q.C.

15th June 1854.

350. To whom was it paid?—To the Crown. It was paid to the Knights of St. John of Jerusalem, till they were dissolved by Act of Parliament, and after that time it was paid to the Crown; it continued in the Crown, and it was as I verily believe, a fee farm rent. It was a rent of 10*l.*, paid down to the time it was purchased.

351. It was bought of the Crown?—Yes, it was purchased of the Crown. "The Professors and Students of the Law, resided in the Temple, who, in tract of time, converted and regulated the same; first into one Inn of Court, and afterwards, in the reign of Henry the Sixth, divided themselves into the two Societies, or Inns of Court." And it appears, that by that time, they were so multiplied and grown (that is, the men of the Law,) "unto so great a bulk, as could not conveniently be regulated in one Society, nor was the old Hall capable for so great a number; whereupon, they were forced to divide themselves," and then it was, that they became two Societies, and there was a new Hall built. There was no exact division of the property at that time, nor do I believe that there was until the year 1732, when the two Temples divided the Temple by metes and bounds, and so it continues up to the present day, by agreement between themselves. On the dissolution of the Knights of St. John of Jerusalem, in the 31st of Henry the Eighth, the Temple, with the other possessions of that Society, passed to the Crown; and it is most remarkable, that upon a search in the Augmentation Office of the Exchequer, it appears, that upon the dissolution, the Crown's minister accounted only in respect of the Temple property, for two sums of 10*l.* each, paid by the then Treasurers of the Inner and Middle Temple; and it therefore seems clear that no change took place at the dissolution, but that the Societies continued to hold the Temple, after the dissolution, in the same manner, and subject to the same yearly rent as they had done before; and this state of things continued down to the time of the Grant, in the 6th of James the First. I believe it to be true, the greater part of the buildings of the Temples, as they exist now, were built by Members of the House, and out of their own funds. In very early times, there was the House of the Temple. In the oldest map that I have seen, there was a large building and gardens about it, but the Lawyers themselves built the Temple as it now exists, out of their own funds; and I find that between the 13th of Henry the Eighth, and the 31st of Elizabeth, (and I have taken those dates because they comprise two periods between almost our earliest records and the time of the Grant,) there are nineteen instances (and there may be more) of licences to build Chambers; given to individuals who in consequence of their so doing, were to enjoy them for their lives; eleven other Grants to Members, in consequence of their having built Chambers, and others, in consequence of repairs having been done; besides other grants for services rendered to, or expenses paid for the Inn. Now, all these were private individuals; but much stronger to the point is this: I have made out a list of the different buildings which were erected by the Inner Temple. I find that in the 16th of Henry the Eighth, the Lawyers built a wall between the Thames and the gardens. In the 20th of Henry the Eighth, the Chambers between the Library and Barrington's Rents were built by Mr. Barrington, and he also gave 10*l.* to the Treasury, which was a very large sum in those days. Tanfield Court was built in the 26th of Henry the Eighth. In the 1st of Mary, the kitchen was newly built. It would appear, that in very early times, the Lawyers had very little property in the Temple, except this large House, the Church, Hall, and Garden, and the land round it. The revenue of the Inn in those days, was produced in a great measure from fines imposed upon Readers, Stewards, Marshals, &c., for not serving offices. There are many instances of Barristers refusing to be Benchers, because they would be bound to serve offices which entailed very large expense, or to pay heavy fines. A portion of the fines probably went towards building the Temple; assessments were also made for the same purpose. I find that the buildings near the Alienation Office were erected in the 3rd of Elizabeth, and Fuller's Rents, to which Mr. Fuller gave 100*l.*, were also erected in that year; what were called Black Buildings, near the Alienation Office, were erected by Mr. Bonham, Mr. Boucher, and Mr. Williams, in the 16th of Elizabeth. Those buildings were afterwards pulled down in 1663. The Alienation Office was built in the 19th of Elizabeth. The buildings in Middle Temple Lane, called Crompton's Buildings, were built in the 23rd of Elizabeth; two sides of the garden were enclosed with a brick wall in the 31st of Elizabeth. Cæsar's Buildings, between the Church and the Hall, on the east side, towards which Sir Julius Cæsar gave 300*l.*, and Paper Buildings, were commenced in the very year the Grant was made to the Temple. What I am anxious to draw the attention of the Commissioners to, is this; that all those buildings were done before the time of the Grant of James I., and, therefore, those were all possessions of the Temple; and be it remembered that that strongly corroborates the point I mentioned, that that sum of 10*l.* was fee farm rent, because 10*l.* in the time of Edward III. was a very large rent indeed, and that payment continued down to the time of the purchase of it by the Inner Temple from the Crown. The Inner Temple Gate was built by Mr. Benett, then Serjeant-at-Arms (not at Law), in the 8th of James I. Brick Buildings, in Inner Temple Lane, and those buildings, near Ram Alley, wherein the King's Bench Office was kept, and the buildings in Fig Tree Court, were erected in the 15th of James. The bridge and stairs to the Thames were built in the 18th of James. The great brick buildings over against the garden, a new kitchen, the staircase to the door of the Hall towards the gardens, which cost 2,700*l.*, and more buildings in Fig Tree Court, were erected in the 4th of Charles I. The buildings between the Hall and the new buildings in Fig Tree Court were erected in the 5th of Charles I. The east

William Whateley Esq., Q.C.

15th June 1854.

end of the Church was repaired, and the little brick buildings at the end of the Alienation Office were erected in the 10th of Charles I.; and Harcourt Buildings were erected in the time of Queen Anne. It is of importance that these things should be known, because people imagine that the Temple took all their property from the Crown.

352. What is the important difference, whether it was their own property, or whether they derived it from the Crown?—It is a very important thing that we held all this property up to the time of James I. as our own property, bought with our money, and not as a Grant from the Crown. At the beginning of the reign of James I., some man fancied that we had no title, because we had no Grant. That alarmed the Temple, and the two benches petitioned King James I. to give them a Grant. He did so; the present Grant was given; upon which the Templars made him a most magnificent present of a stately cup of gold,—of which there is a very glowing description,—weighing 200½ ounces of pure gold.

353. There was no money payment to the king?—The Grant gives us nothing: it is literally an extinguishment of rights, if it is anything at all. There was 10*l.* paid by the Middle Temple, and 10*l.* paid by the Inner Temple. By this Grant both those rents are granted to the Temple, upon the payment by the Inner Temple of 10*l.*, and the Middle Temple of 10*l.*, and so it comes to a payment upon one hand and a receipt on the other; and the Grant is in fee for the maintenance and education of the Professors of the Law and the Students. I do not by this mean at all that it throws the least doubt upon the duty of the Inns of Court, but it is a very different thing whether it was given by the Crown for a special purpose, or whether, being their own property, they got this Grant of Confirmation.

354. It would furnish strong evidence that they held it before with a certain Trust attached to it, namely that of education?—Very likely; but still it puts the matter in a clearer light than I ever viewed it myself before I examined into it.

355. I thought you rather enlarged upon its being your own private property, and if so, the Legislature have no right to interfere?—It might be like a College where the property is given by the Founder. I do not say that Parliament cannot interfere, nor that that property ought not to be available for the education of the Students; I think it ought; still it does make a great difference, in a moral point of view at all events, whether the men of the Law erected all these buildings at their own cost, or whether the Crown said, "Here is a valuable possession that we give you, for the purpose of laying it out in a certain way."

356. Are the Commissioners to understand that there was originally only one payment of 10*l.* to the Knights-Hospitallers, and that subsequently there were two payments of 10*l.*?—No; there were two payments of 10*l.* each to the Knights-Hospitallers, one by the Inner Temple, and the other by the Middle Temple. It might have been originally only 10*l.*, for it certainly is mentioned in the 20th of Edward the Third, that the Knights-Hospitallers farmed out the Temple at the yearly rent of 10*l.*

357. Afterwards it became 20*l.*?—Yes; afterwards it became 20*l.* But whether it was 10*l.* arising out of one portion of the Temple, and 10*l.* out of the other, it is a very difficult thing to say. I find that the Inner Temple did pay 10*l.* a-year, until that rent was purchased, which was, I believe, about the year 1673.

358. Now it is no longer paid?—No, it is no longer paid; and it is a very remarkable thing, that in the Alienation Office, in the return of the possessions which belonged to the Knights of St. John upon their dissolution, the Minister of the Crown only returned these two sums of 10*l.*, one by the Inner Temple, and the other by the Middle Temple; and in all probability those were fee-farm rents.

Horace Binney, jun., Esq.

HORACE BINNEY, JUN., ESQ., examined.

359. You are a citizen of the United States?—I am, and a Member of the Bar of Philadelphia, practising in the State of Pennsylvania.

360. Your father was a distinguished Member of the American Bar; did he hold any office as such?—No, my father never held a Public office, he has retired from practice. In his early life, he was a Member of the Legislature of Pennsylvania, and about the year 1833–4, he was a Member of Congress for one Session, which is two years; this was at the time when President Jackson removed the Public Deposits from the Bank of the United States.

361. Your father had very considerable practice at the Bar, had he not?—Yes. I may say, without hesitation, that my father was one of the Leaders of the Bar of his day. I believe that almost all his associates are dead, therefore I may speak with less reserve. He has survived his two eminent associates, Mr. John Serjeant and Mr. Charles Chancey, who, with my father, were Leaders of the Bar of Philadelphia.

362. You have been some time in practice yourself, have you not?—I have been in practice about twenty-three years. I was admitted in 1831, being then twenty-two years of age, and I have been practising from that time.

363. Can you state to the Commissioners the course of proceeding for admission to the

Horace Binney, jun., Esq.

15th June 1854.

Bar in America?—The Commissioners will be good enough to bear in mind that I can only speak as a Pennsylvania Lawyer. I am inclined to think that our condition, as a Federation of Independent States, is scarcely sufficiently appreciated out of the United States. Everywhere abroad, inquiries are made of me constantly with regard to the condition of things in remote States, of which I am nearly as ignorant as a stranger to America can be, owing to the vast extent of the United States. The system of proceedings for admission to the Bar differs considerably in different States. As to Philadelphia I can speak, and partially as to New York, and also as to the practice in the Courts of the United States, properly so termed.

364. Will you state, first of all, the course of proceeding for admission to the Bar in the State of Pennsylvania?—In Pennsylvania there is no distinction of grades in the Profession. The term Barrister is not used. The term Counsellor is used, but with us is merely an honorary one. We are all Attorneys-at-Law, and the Attorney, as such, does all the duties of the Profession, that is to say, from the first institution of the suit, through the preparation of the pleadings, the trial at Nisi Prius, the argument in Banco, and, if necessary, the issuing of the final process upon Execution and Judgment, and all this in his capacity as Attorney. The mode of admission to the Bar of Philadelphia is this: the Judges of our Courts make a list of the Bar, making their selection from a large number of Members of the Bar, and divide the list into classes of, I think, seven; and those seven (the senior acting as Chairman, and the junior as Secretary) are called the Board of Examiners. A Student-at-Law must read Law in the office of a practising Attorney for three years, if he commence under twenty-one years of age, and for two years if he begins after twenty-one years of age. He is attended to, (or it is expected that he will be attended to,) by his Professional instructor during that period. I should have said, that at the outset he is registered on the Dockets of the Court as a Candidate for Admission; that is, as a Student contemplating admission, when he shall have studied his two or three years, as the case may be. Three months before the period at which he may enter, if he shall pass the requisite Examination, he makes a second application, which is called, I think, a Notice of Application for Admission, which also is registered. It is filed in the Court.

365. Is publicity given to those Regulations?—Publicity is given only to the final application for Examination and admission; this is published when a Student has come within a month of the three years previous to his admission. It is done in an Official Paper, called the Legal Intelligencer, in which the Courts publish all their rules. The applicant, by advertisement in this paper, gives notice that he will, within a month, make application to the Board of Examiners for admission, and that application is published four times, the paper being a weekly one. I believe sometimes the application is published for a longer time. Having complied with the requisite application to the Court, and published the notice, he presents himself, at certain stated periods of the Session, before the Board of Examiners. He brings with him a certificate of good moral character from his Instructor, with whom he has read Law, and he then submits himself to an Examination. That Examination being favourable, and the certificate of his moral character being satisfactory to the Board of Examiners, he is reported by them as having passed a competent Examination; he presents himself with that Certificate, and then the gentleman with whom he has studied, or some other gentleman of the Bar, makes a Motion for his admission, in open Court. He swears allegiance to the Constitutions of the United States, and the State of Pennsylvania, and that he will conduct the business of an Attorney with all fidelity, both to the Court and to his Client, and he is then admitted to practise.

366. Is the Examination exclusively professional?—It is exclusively professional.

367. With regard to the expense, in placing himself under an Instructor, does the Student pay a regular Fee, or is it regulated by a contract between the parties?—A contract between the parties entirely regulates it. The fee in the office of gentlemen of note, the leading men at the Bar, is usually about 100 dollars a year. 300 dollars will carry a Student through. I do not know that any gentlemen of the Bar charge more than that, and a great many, who have less practice, are content to take a less fee; but so far as anything can be pronounced certainly upon the subject, 100 dollars is the usual fee. I am giving rather my impression, of course it is not a thing upon which it is possible to speak accurately.

368. Are there fees payable to the Court upon admission?—None at all; there is a dollar to the Crier, that is all.

369. Have you ever acted as Examiner?—Yes, frequently. I have acted as Examiner, I think, within nine months. I was an Examiner during the last summer.

370. Is the Examination vivâ voce, or upon paper?—It is vivâ voce. The Student is introduced; the gentlemen sit as a Commission, and the Chairman of the Board of Examiners requests any gentleman whom he thinks fit, to begin the Examination. It is taken up in rather a desultory way, but the Student is generally pretty well tested by it.

371. How long does the Examination last?—Perhaps half an hour or an hour, it depends upon the competency of any young man. It has sometimes occupied several hours. The Examination is not rigid. If a young man shews himself competent, his Examination would be soon over; sometimes, when he shows himself very competent, his Examination is rather prolonged, for the pleasure of bringing out his obvious qualifications.

372. Is the Examination private?—It is entirely private, and the Minutes of the Proceed-

Horace Binney, jun., Esq.

15th June 1854.

ings are entirely private. No one is allowed to inspect them, except the Judges of the Court, when they require it; and I knew a case of a little embarrassment with which I was connected as a member of the Board, where there was some reluctance to shew the Minutes to the Judges of the Court, unless they should make a formal order.

373. Supposing the Board of Examiners reject a Student, is there any appeal?—That is a question that I cannot answer, for I am not aware of any appeal having ever been made. I think that, in general, a rejection is softened with the advice to withdraw the application, and to study longer. In general, I think, the Examination not being very strict, it would be a hopeless thing to appeal, for I do not think any Student was ever rejected, who could, with any propriety, have been admitted.

374. How often are the Examinations held?—The Sessions of the Boards last at least nine months in the year. They meet perhaps every two or three weeks. A new Board is appointed each Term, and there are four Terms in the year.

375. What is about the average number admitted in the course of the nine months' Session?—I should find it very difficult to answer that question, because my attention has not been called to the subject of it. If I were to give a conjecture, I should suppose there could not be less than from ten to twenty young men admitted annually.

376. What is the population of Pennsylvania?—The population of Pennsylvania is something like 2,500,000. The Commissioners will bear in mind, that in speaking of admission to the Bar, I have had exclusive reference to the Bar of Philadelphia. The population of the city and county of Philadelphia is upwards of 400,000.

377. Have not you been speaking about that which applies to the whole state of Pennsylvania?—No, I confine myself to the Bar of Philadelphia. In regard to the County Courts, I cannot speak with confidence, but I think that some similar arrangement exists.

378. You stated that the Judges selected the Examiners; are they the Judges of the Court of Philadelphia?—They are the Judges of the Courts of the city and county of Philadelphia.

379. In the County Courts, I suppose, something like a similar process is gone through?—There is, I believe, an Examination for admission to the Bar of each county. The Bar of each other county, compared with that of Philadelphia, is small, but that every young man is subjected to an Examination of some kind, I fully believe.

380. Would a gentleman admitted to the county Bar, be admitted to practise in the Courts of Philadelphia without having practised at the city Courts?—Yes. After practising in the Courts of the city of Philadelphia for two years, Members of the Bar are then admitted to practise upon a motion made in the Supreme Court of the State, and not before.

381. Does the same system prevail with regard to other States?—Yes, my impression is, that it does. I think there is an interval of from two to three years. I have a brother-in-law, who is an Attorney and Counsellor in New York; for in New York the distinction does prevail of Attorney and Counsellor, although there is not, as I understand, the same difference which those terms imply in this country.

382. Is not the right of practising in the Supreme Court regulated rather by the Federal Regulation?—Yes, if the Supreme Court of the United States is referred to. I have been speaking of the Supreme Court of the State of Pennsylvania. Upon being admitted to practice in the Supreme Court of the State, we then can present ourselves with that certificate for admission to practise in the Federal Courts, by which we mean the Courts of the Union; those Courts which have jurisdiction given by Acts of Congress in matters connected with the Constitution and the Laws of the United States.

383. When you spoke of the Supreme Court of the State of Pennsylvania, did you mean the State Court?—Yes.

384. In Pennsylvania there are District Courts and County Courts, and there is also a Supreme Court, which I suppose entertains Appeals from all the Courts of the State?—Yes.

385. Does that Court make Circuits?—It did make Circuits, but it does not do so now. It sits, however, to hear arguments upon Writs of Error at Common Law, and Appeals in other proceedings, at different places in the State. At Sunbury for the Northern District; at Harrisburg for the Middle District; at Pittsburg for the Western District; and at Philadelphia for the Eastern District.

386. In addition to those Pennsylvanian Courts, are there not Federal Judges, who come to Pennsylvania?—Yes, we have Judges of the United States, who are Judges of what are called District Courts of the United States; we have, also, others, called Circuit Judges, who make Circuits of parts of their own State, and sometimes of adjoining States. The Judges of the Circuit Courts compose an Appellate Court, which is the highest Court of the Union—the Supreme Court of the United States, which is held at Washington.

387. After two years' practice in the District Court, you are allowed to practise in the Supreme Court of your own State; and on a Certificate of your being allowed to practise in the Supreme Court, you would be allowed to practise in the Federal Courts?—Yes, it is done with very little form. Any gentleman known as a Counsellor would be introduced upon a motion.

388. You spoke of a certificate as to moral character from the Instructor; would a moral objection from any quarter be entertained by the Board of Examiners?—Yes. In a country like ours, where business takes a practical direction, many men present themselves for admission to the Bar, who are not men of classical education nor of accomplished minds;

Horace Binney, jun., Esq.

15th June 1854.

but who, nevertheless, may have qualifications sufficient to enable them to pass an Examination which is wholly Professional. Occasionally, though, certainly, very rarely, objections are made to the moral character of the applicant, and they are always entertained with great care. On one occasion I have known the matter brought up, and it was treated with the greatest delicacy and earnestness.

389. Is it not more particularly in respect to that point that the whole proceeding is strictly private?—Perhaps so. I have known a case, and have heard of another, in which an objection, on the ground referred to, was made, and then the privacy of the proceedings became very important indeed. There is at Philadelphia, an association of gentlemen of the Bar. I do not know how far the institution of the Inns of Court in this country may have given us the outline of that association; it is called the Law Association of Philadelphia. That association has some little capital, though nothing at all to be compared with that of the Inns of Court which I see around me. It owns a very good Law Library, which answers the public purposes of the city Bar, and I suppose is worth at least from 15,000 to 20,000 dollars, perhaps more. It has also some small invested Funds, derived, I believe, exclusively from the Annual Contributions of the Members, who pay, I think, 10 dollars each, and which invested Funds are liable to be used in the way of charitable appropriation, for the relief of unfortunate Members of the Bar. This Law Association is one, which I perhaps might say, in a general way, is supposed to represent the honour of the Bar, and we have various Committees, one of them called a Committee of Censors, and that committee, if properly applied to, would, I am persuaded, take strict cognizance of any malpractice alleged against a Member of the Association. That body has had certainly very little to do.

390. What is the mode of admission to that Association; is it by ballot?—My impression is, that it is done by ballot; it is certainly done either by ballot, or some other mode of election. You present your name as an applicant for admission, and you must also purchase what is called a share of the stock. I think you pay 50 dollars, that is about 10*l.*, and then your name is presented for admission. I think there is a ballot. Not being able to refer to the constitution of the Association, I cannot speak more precisely.

391. What power have that Association of enforcing their decrees; can they dis-bar a man, or is the power which they possess only moral power?—It is only moral power, except as to their own Members.

392. How does that operate?—Such a thing as a censure from the Law Association would, I think, be very formidable to any Member of the Bar.

393. Can they expel a Member from their own body?— Yes, I certainly think so.

394. Is it an object of ambition to be a Member of that Association?—I think that matters have generally gone on so quietly at our Bar, that it is more regarded as a matter of convenience, in the use of the Library, and the other incidental advantages of Membership.

395. You have been a Member of the Association a good many years?—I have been a Member a good many years.

396. You have made a statement with regard to the Instructors, but you have not stated what is the course of instruction pursued during the three years. What is it that the young man does?—The instruction varies with the views or notions of the Instructor, and sometimes with his fidelity, because some of our gentlemen, occasionally, do not perhaps give as much attention to their young men as they ought to do; they are burdened with business themselves, and they allow the young men to shew their competency, if they are disposed to do it; but if not, they are sometimes allowed to drag.

397. As a young man goes on, he becomes very useful to his Instructor?—Yes; very much so.

398. The Instructor has no person like an Articled Clerk in this country, has he?—No, so far as I am aware. The Student is expected, undoubtedly, to do whatever his Instructor shall think fit. I have never known complaints as to the course of an Instructor brought before the Law Association, but I have heard Students complain. Having, perhaps, a competency to discharge a particular branch of duty, they were kept to it rather too closely, and more with reference to the convenience of the Instructor, than their own advancement in the knowledge necessary for their Profession.

399. Practically, is it the habit in America, to divide the duties into Conveyancing and practising, in one Court, rather than another?—Somewhat so; and yet, not so far, perhaps, as to enable me to state that any general rule exists upon the subject. Some gentlemen are remarkable for doing all their work themselves. My father had many Students, some of whom afterwards distinguished themselves highly at the Bar; but I believe his habit was, to draft all his own Pleadings (other than mere Forms); and he would in general settle everything himself.

400. There are some gentlemen in this country, who confine themselves almost entirely to drawing Conveyances; is that the case, in America?—It is not. In Pennsylvania, there is a class of men called Conveyancers, or Scriveners; but their duty is of an inferior kind; in almost all cases of special Conveyancing, they refer to Counsel.

401. In speaking of doing all the duties of an Attorney, do you, in the commencement of your Profession, go through the routine of serving processes yourself?—Yes. The Students do it; and, also, in the early part of the Profession, we do it ourselves; we feel

no hesitation at all, in that respect. Even distinguished Members of the Bar, in full practice, if the convenience of their business required it, would serve a Rule to plead; or, sometimes, even a subpœna upon a witness.

402. Then it would be necessary for them to make affidavit of having so done?—Yes.

403. Supposing you had a case, that was to come to Nisi Prius, should you examine the witnesses yourself, before-hand?—In general, we should. The witness would, almost always, be brought to our office; we would see him personally; we are sometimes much troubled with the reluctance of witnesses. There is a sort of notion, which obtains to a considerable extent in America among witnesses (unless they are decidedly friendly), that you have no right to find out what they are going to say, until you put them into the witness-box. We have seldom those large briefs of testimony to be submitted to Counsel which you have in this country.

404. Is there any distinction between Law and Equity, in Philidelpha?—Yes.

405. They are not fused?—No. Not in the sense in which I understand the subject to be now under consideration in this country; that is to say, that the same Judges shall, in the same proceeding, apply all the principles of Law and Equity.

406. That has been already done, in New York, has not it?—Under their new code of practice, I believe, that has been done; I know too little about it, however, to speak of it.

407. Are you of opinion, that the tendency of things in America is rather to separate Law and Equity?—I see no tendency in Pennsylvania to their fusion, in the way in which I understand the subject contemplated in this country, and as may be the practice in New York. For a great many years (I think from the commencement of our State Government, in 1790, or thereabouts, down to within the last eighteen years), we had no separate system of Equity, as it is understood in this country; we had not the Bill and Answer, and we got along tolerably well without it; as the Federal Courts always had the system, and it was very frequently competent to us to bring our actions in the Federal Courts, and we had the Bill and Answer there; but there was no Chancery, no administration of Equity, as a separate system, in Pennsylvania, until about eighteen years ago. At that time, the inconvenience felt, in that respect, induced our Legislature to vest pretty full, though not entire and absolute chancery powers, in certain of our Courts, especially the Court of Common Pleas of Philadelphia, who do not sit as a Court of Common Law, except in appeals from Magistrates involving sums under 100 dollars; they are Judges of the Court of Equity; and in the Common Pleas, we file our Bills, and pursue Equity, following your precedents. In our special code of rules of our Common Pleas sitting in Equity for Philadelphia, the final rule is, that in all cases in which provision has not been made for a particular emergency, the rules of the High Court of Chancery in England shall be referred to by way of analogy.

408. Do you stay proceedings in the Common Law Courts upon Injunctions, as is done here upon Equitable grounds?—So far as I am aware, the point has never yet actually arisen. I am inclined to think, however, that there has always been a strong disposition upon the part of our Judges in Equity to give relief themselves, if they can, or to advise the parties to get it in an action at Common Law, but to endeavour to avoid a conflict of jurisdictions.

409. Then, perhaps, by the analogy of the rule which you mentioned just now, according to the precedent of the English Courts of Equity, you would probably grant Injunctions to prevent mischief?—Yes. Injunctions are granted very frequently.

410. Has the Bar in Pennsylvania, to your knowledge, considered whether it would be desirable to alter their present mode of Examination?—No; I am not aware that the subject has been thought to require any revision. I ought to state, perhaps, that the President Judge of the District Court for the city of Philadelphia, which Court transacts the greater part of the original business of the city and county, and two eminent Members of the Bar, constitute the Legal Faculty of the Department of Law in the University of Pennsylvania, established at Philadelphia. This department has only been called into existence within three or four years; those gentlemen, as a Legal Faculty, deliver Lectures to such Students as desire to avail themselves of their services, and they receive a fee from each Student for so doing. It is a department of the University of Pennsylvania which has been opened only lately, but those Lectures are very well attended by Students of Law, and my impression is that we have a rule, that Students who have attended the Courses of the Legal Faculty, that is, of the Professors who fill the Chairs of Law, and who have passed a satisfactory Examination, are admitted to practise without any further Examination. I do not, however, speak confidently on the subject.

411. Do they confer Legal Degrees?—Yes, I think that they confer the Degree of Bachelor of Law; it is a new thing, however, with us.

412. Are the Lectures which they deliver public?—Yes. When I say public, I mean open to all Students willing to pay the fees. They are confined to their Classes; they are not public, in the sense of being open to the public gratuitously.

413. Do they merely deliver Lectures, or are there catechetical Examinations?—My impression is, that there are catechetical Examinations. I think the Professors invite inquiry on the part of their Students. I think that there is a Moot Court, as we call it, for which the Students are expected to prepare themselves. There is a little association composed of Students of the Law, called the Law Academy, also in Philadelphia, of which I think almost all Students of Law are Members. That is presided over usually by a

Horace Binney, jun., Esq.

15th June 1854.

leading Member of the Bar, and perhaps sometimes by one of the Judges. That Law Academy is one which I think exercises a very beneficial influence upon Students preparing for the Bar.

414. Is that entirely a voluntary association?—Yes, entirely.

415. Do they meet in debate?—Yes, they do.

416. Professionally, or politically?—Professionally. They have a regular argument list prepared, and notice is given for the hearing; parties are assigned to take different sides, and it is just in the form of an argument in Banco.

417. Have you at Philadelphia an arrangement that existed at Boston for the division of labour, by two gentlemen associating together, and one devoting himself particularly to Advocacy, and the other more particularly to the business of an Attorney?—That exists to a great extent in New York, and may do so in Boston; it exists to a very slight or quite insignificant extent in Philadelphia.

418. Are there formal partnerships at New York?—Yes.

419. Do the Attornies assume the character of Advocates in any causes, excepting those in their own office, or are they like our own Barristers, who receive causes from others?—A Member of the Bar at Philadelphia will be called in as a senior or junior colleague in a case from any office, and he is identified with the cause. Attornies do not confine themselves to causes originating in their own office.

420. Would all important cases have more than one Attorney?—Yes, generally.

421. Do you know enough of the course of proceedings in New York to know how the Barristers are admitted?—My knowledge is too limited to enable me to speak, but my impression is, that after being examined as Attorneys, and admitted as Attorneys, they pass some further Examination before they are admitted as Counsellors.

422. They are admitted as Attorneys first?—Yes.

423. Throughout the whole of the Union that is so, is not it; at least in all the Common Law states, there is no distinction between an Attorney and a Barrister, except that further Examination of which you speak?—No. I do not believe that there is any distinction, except the further Examination. The term Barrister is not used in Pennsylvania or New York, nor, so far as I know, elsewhere in the United States.

424. What is the opinion of the Profession generally as to the offices of an Attorney and a Barrister being combined in one?—I think the opinions upon the subject would differ so much that I could come to no certain conclusion. We find great inconvenience from their being combined, and sometimes great convenience. In the United States, the turn of things is rather to enable everybody to do everything. This results from the character and habits of our people. That division of labour, which is characteristic of this country, is not so of us. Here you obtain a great precision in everything by the division of labour. In our country we do not, to the same extent. In other departments, such as that of manufactures, the principle of the division of labour prevails, but such is not generally the case with respect to the labour of the Bar.

425. In this country a Barrister is considered in a more aristocratic position than an Attorney; probably there might be a democratic objection to that distinction in America?—I do not believe that in New York, where the distinction of Attorney and Counsellor exists, that amounts to anything. I think that there is no such social distinction. An Attorney in New York, if he were a man of breeding and manners, would rank in society with a Counsellor.

426. A Counsellor is, in point of fact, an Attorney?—Yes; so far as I know, he continues, in New York, to practise as an Attorney while he is a Counsellor.

427. Was it not the fact, that Mr. Webster practised only as an Advocate, and not as an Attorney?—It is very probable. I have no certain knowledge upon the point.

428. Is it not so, that there is a great number of persons in the various States who practise as Barristers exclusively?—I cannot undertake to answer for anything properly out of Philadelphia; but I know that occasionally, our most leading men draft their own Pleadings, and allow no one to touch them but themselves; they then argue their case. I know one or two eminent men, very good pleaders, who, from the very beginning, in a particular case, will pursue that course.

429. Do you know a gentleman of the name of Spencer, in New York?—By reputation. The Honourable John C. Spencer is or was an eminent Member of the Bar of New York.

430. Is it not the case that he practises in New York in no other capacity than that of a Barrister?—That is very probable. I think the establishment of partnerships throughout the State is so extensive, that the result of the separation of the Attorneys and the Barristers would be what has been mentioned, the younger Members will do the Attorney's work of the firm.

431. How are the Judges in Philadelphia appointed?—They are elected by the people.

432. By universal suffrage?—Yes; by what is practically universal suffrage. The right of suffrage in Pennsylvania exists on the part of every white male citizen who pays his taxes; and if a man owns no Real estate, he only pays a personal Tax, which may amount to a dollar or two in the course of a year.

433. Must the Judges be elected from the Bar or from the Legal Profession?—Yes. As it is only two or three years since the change in our Constitution was made, we have had

but one or two elections. My impression is, that the terms of the Act are, "shall be men learned in Law," but I have not the Constitution at hand. It would, I think, practically, always be so.

434. Is the Judge elected for life?—No, for a period of years.

435. In the case of some of the district Judges, is not very great ignorance of Law displayed sometimes, almost as if they were very illiterate characters?—We have had what we call the Associate Judges of the Courts of Common Pleas, in the country; they are not necessarily learned in Law. These Courts have a good deal of rough work to do, especially in the county; but the presiding Judges of these Courts are all required to be learned in the Law. They have branches of Jurisdiction, which are manifold, such as the opening and vacating of roads, and a great many other matters.

436. Do they sit in Chancery?—No. In Philadelphia the Judges of the Court of Common Pleas are all of them learned in the Law, and the Equity System of Philadelphia County has, I think, been gradually extended by the Legislature into some of the other Counties. I do not think it obtains throughout the State.

437. When you say that it has been gradually spreading, have they any power of that kind without an Act of the Legislature?—No; but if a system works well in a particular part of a State, it is apt to be extended by the Legislature: that is generally the case through the United States.

438. For what terms of years is a Judge elected?—Fifteen years is the term of the Judges of the Supreme Court. The Judge of the District Court and the Court of Common Pleas are elected for ten years. The system, however, is new, and there is a good deal of detail. I should not like to speak with confidence upon the subject.

439. Are they capable of re-election?—Yes, I think so. We have five Judges of the Supreme Court; lots were drawn when they first entered upon their duties under the elective system, and they were arranged in classes; one goes out every three years, and then, when their successors are elected, they come in for the full period of fifteen years.

440. Do you think that the results of the Legal Education adopted in your States generally, are good?—I am not aware, in the condition of things with us, that any great improvement could be made.

441. How do you think the Legal Profession in the United States stands now in Society, with reference to other professions and classes of people?—I think I can say that in Philadelphia, the profession of the Bar stands high. Philadelphia was the metropolis of the Union for many years, until the advantages of New York, as a port, brought greater population and greater wealth there, and New York is now the metropolis. Philadelphia was distinguished for a learned and I believe a pure Bar; the influence of the Philadelphia Bar was noted throughout the Union, and we have common proverbs among the people which imply compliments to the attainments of the Philadelphia Lawyers. In New York the mercantile influence seems now to be predominant. I think I might say, that, in Philadelphia, the influence of the Bar is upon the public greater than in New York; from a comparison of views with a friend, practising at New York, I think that such is the case. The leading men of the Philadelphia Bar are the men who, in a crisis, are looked to, to lead and rally Public opinion.

442. Are many of them Members of the Legislature?—There are almost always two or three Members of the Bar from the city of Philadelphia in the Legislature. It is expected that the Delegation from Philadelphia in the State Legislation shall contain a Member of the Bar, as a general rule; and in the senate of the State it frequently happens; not unfrequently, also, in the House of Representatives at Washington.

443. With respect to the number of Pupils that are taken by Barristers, the fees appear very small, 20*l.* a year. Is the number of Pupils taken by eminent Barristers, very large?—Not very large.

444. What number did your father have?—He had sometimes nine or ten at a time. I ought to say that I do not think the matter of compensation is ever looked upon as a question of much moment; it would bear so insignificant a proportion to the other emoluments of the Profession. A gentleman would take a Student, because he was expected to do so, and he would find him convenient to him; but I think, generally, they care little about it in the way of emolument.

445. Is he expected to give the Pupil any direct tuition, or to examine him in any way?—I think I may say, that the opinion of the Profession would expect it from him, and in some instances, where it is neglected, fault is found. When I have been on the Board of Examiners, and a Student has not passed a creditable examination, it has been privately noticed, to the disparagement of the gentleman who instructed him.

446. Is there any general understanding, that they shall receive instruction in the day or evening, or anything of that kind?—I think, in the case of gentlemen who are known as careful men, not less than one evening a week, is given to the Students. I think I have understood from Mr. George M. Wharton, who is a personal friend and an eminent Member of our Bar, and noted for his fidelity to his Students, that he does not give less than one evening a week to them.

447. Once a week, in the evening, he devotes himself to the Students?—Yes; he will give them an Examination upon what they have been reading in the week.

448. Is three years' attendance compulsory?—Yes, if the Student begins under twenty-one.

Horace Binney, jun., Esq.

15th June, 1854.

449. Does the three years practically mean, nine months in each year?—It means any period of three years. The Students may not attend regularly at all; but if he comes up to the requisition of the Examination, no inquiry is made.

450. Is there not some intermission of the time of the instruction?—Yes; he is occasionally away, and he would give his Students a holiday in summer. Any Student wishing to go away for a month or two, would be cheerfully allowed to go, as I think.

451. Does the instructor give a Certificate of attendance each Term?—No.

452. How is his attendance tested?—The instructor has to give finally a Certificate that the Student has read Law with him during a period of three years, and that his moral character is good. I desire to add, that the answers I have now given to the Commission, being given without the opportunity of access to any of my books, are given with diffidence. I desire to be understood as answering, in every instance, subject to correction by my books, when those books would furnish information or authority upon the points as to which I have answered.

Adjourned to Wednesday, at 4 o'clock.

Wednesday, 21*st June* 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

C. H. Whitehurst, Esq., Q.C.

21st June 1854.

CHARLES HOWARD WHITEHURST, Esq., Q.C., examined.

453. You are Treasurer of the Middle Temple?—I am.

454. Have you any Statement with you of the property of the Middle Temple?—I have.

455. It is divided, I presume, like that of the other Inns; the income derivable from Real property, and the income from payments and Fees received by the Society?—It is; and from Funded property also.

456. Will you be good enough to state the general heads to the Commissioners?—The property of the Middle Temple consists of Chambers and Buildings, a considerable part of which were purchased by the Society, and the remainder they hold under a Grant of James. I. They appear to have been in possession of all the property which they derive under the Grant of James I. at least for a century before the date of that Grant. The origin of that occupation I cannot give you. The other portions of the Real property were purchased by them some time before that Grant; namely, in the reign of Elizabeth, or before; and other portions of it since. What the Uses of the portion acquired under the Grant of James are, the Commissioners will see by the Grant itself now before them. With regard to all the other property, it was conveyed to certain persons, no doubt for the Society, but without any Trust expressed; but I think that immaterial for the present inquiry, because when the property of the two Inns of Court was divided in 1732 (for before that time it was held jointly, though particular portions were appropriated to each Inn), all the Real property, with the exception of a very small portion (in fact, out of the Temple) was conveyed to Trustees upon the same Uses and Trusts as are specified in the Grant of James. They vary, indeed, a little, though I think only in one word. The Trusts of that Deed of partition, which is in English, were, "to serve, and be employed "for the entertaining, education, and habitation of the Students and Professors of the Law "residing within the Temple." The words in the Grant of James are for "the habitation and education," the difference being the introduction of the word "entertaining," and therefore, in strictness, the property acquired under the Grant of James would be "pro educatione et hospitatione"—(they are the Latin words used)—of the Students and Professors; the other would be for the "hospitatione et educatione," and also for the entertainment, unless the proper meaning of the word "hospitatione" is for the entertainment and habitation, which I believe is the case.

457. It is a Deed of partition?—Yes. The property which they do not derive under the Grant is the Master's house, that property now called New Court, Garden Court, some property at the top of Middle Temple Lane, on the east side, now partly occupied as shops, property on the west side of Middle Temple Lane, and what, in all probability, is now Brick Court, and one or two of the Courts adjoining, as Essex Court or there abouts; for in the Deeds conveying a portion of the property purchased, a house was described as "in Middle Temple Lane, on the west side," and other property as "two gardens, one adjoining the Master's garden;" now this Master's garden was probably where the fountain now is, and the space beyond lower down, before you get to the common gardens of the Temple.

458. When was that property acquired?—That property was acquired in the 4th of James I., just before the Grant; that is, the property which I have last described. The property which is the Garden Court property, more to the west, and which formed part of what was called the Essex House property, Lord Essex's property, was purchased in the year 1666. The Master's house and shops were the property of the Middle Temple before the Grant.

459. In the purchase Deeds of this property, which has been so acquired, the property is conveyed to you simply?—Simply conveyed; and no doubt to the Middle Temple, for it is quite clear the two Societies were separated long before that period.

460. You are not a Corporate Body, are you?—No, we are not.

461. Was that Deed of partition a voluntary agreement, or was there any suit with respect to it?—It was voluntary. I think it recites that there were disputes between the two Societies as to the property, and they agreed to make a partition.

462. Upon the property that you so acquired have there been considerable erections at the expense of the Society?—Exactly in the same way in both Societies; people have erected buildings, and in consideration have had grants of life interests in the property.

463. Have you built much of late years?—We have not built any since the year 1832. The Buildings were completed in 1834. We then took down what was the old Library and the Parliament Chamber, and built some new Chambers, a new Library, and a new Parliament Chamber.

464. What is the total income of the Real property?—The total income of the Real property, of course, varies every year, according to the quantity of Chambers let. I will give the Commissioners the amount for the year 1850. In the year 1850, the amount received for the Real property was 6,654*l.* 5*s.* 5*d.* In the last year it was 7,349*l.* The Commissioners will understand the year as ending in November, the period to which our accounts are made up.

465. There is a considerable difference: from what does that arise?—Sometimes the rents were paid more regularly than at others. I can give the Commissioners the rental of that part of the property which is in the hands of the Society. In 1850 it was 7,679*l.* 3*s.*; but we actually received at least 1,000*l.* less. The rental now would be, I should think, about 100*l.* more, as there have been one or two sets of Chambers fallen in since that time; but, on the other hand, we have reduced the rent of some of the Chambers.

466. You have collected the rents more closely in that latter year than in the first?—Yes. The Commissioners may take, I think, the income derived by the Society from the Chambers at about 7,000*l.* a year upon the average; it varies very much, of course.

467. Is some portion of it still let upon the plan of being granted out for years?—There have been no fresh Leases granted out for many years; it is against our rules. There are sixty-two sets of Chambers upon one single life, and one set upon two lives.

468. As they fall in, are you compellable to renew them if application be made?—No, except the one upon more than one life; when that life dies, we must renew it for one life more, and then there will be none but those held upon single lives, and when those lives fall in, all the Chambers in the Inn will become the property of the Society, except twenty-six sets of Chambers, which are called the Benchers' Chambers, and are appropriated to the Benchers.

469. Does that custom exist from an old date, as far as you have been able to ascertain?—As far as I have been able to ascertain, beyond all memory they have been appropriated to the twenty-six senior Benchers; the number of Benchers has, as far as I can ascertain been always unlimited, but each Bencher, when he was made a Reader, for it seems to have had something to do with the reading formerly, was entitled to the option of a set of Chambers; the fact was, the Readers were, as a matter of course, Benchers. A man who read, was entitled to a set of Chambers, if there was one vacant; there were frequently more Benchers than Chambers. The present rental of the twenty-six sets of Bench Chambers is 1,000*l.* 10*s.*, which, if all were let, and the rents paid and equally divided, would give an annual payment to each Bencher of 38*l.* 9*s.* 7*d.* (less Property tax). The rents of these Chambers do not in any manner enter into the accounts of the Society, except when unappropriated to a Bencher; nor does the Society interfere with the Chambers, except repairing when required; they are exclusively treated as the property of the Bencher holding them.

470. With regard to that property which is let comparatively at a rack rent, do you put that at less than its market value, supposing it to be let to any stranger?—I do not think it is. The Chambers in the Middle Temple are in a very wretched condition; they are very old, and must almost all come down; they are in that state that every year we are merely delaying it to seek the most convenient opportunity of taking them down, and also for getting funds for the purpose; they are almost all of them in a very bad state.

471. Have you any strangers living at the Temple at the present time; that is, persons not Members of the Inn?—There are only one or two persons not Members of the Inn. We have required them to be Members of the Inn if we let them Chambers, with the exception of one or two lately, but there are other persons than Barristers and Students. There is a Stationer at the top of Middle Temple Lane, and there are some Hairdressers and Attorneys.

472. And you make no difference between their rents and the rents of the others?—Not at all.

473. With regard to the mode of admission to the Bench in the first instance, is it by election?—It is by open election, by a majority.

474. Do the Benchers pay any considerable Fees at your Inn upon admission?—The Queen's Counsel pay upon admission 352*l.*; those who are not Queen's Counsel 252*l.*; they pay 331*l.* and 231*l.* respectively upon their being made Benchers; then, when they are made Readers, which is always shortly afterwards, they each pay 21*l.* more; of these

C. H. Whitehurst, Esq., Q.C.

21st June 1854.

sums, respectively 10*l.* is paid towards the Library, 42*l.* for Entertainments, and the remainder as Fines.

475. If there be more than twenty-six Benchers at the time, do they have to wait for their Chambers?—They have to wait. I had to wait two or three years, when I was made a Bencher, before I could get my Chambers.

476. The reading now is a sinecure, is not it?—Perfectly so: I fancy it has been so ever since the time of the Revolution. There was an order of Parliament made, I think in the year 1688, that the Readers should pay 200*l.* for their reading.

477. By an order of Parliament, you mean an order of the Benchers?—Yes. The Commissioners are aware, of course, that the Readers used to give immense feasts, and spend an enormous sum of money at their readings; but that order of Parliament, I believe in the year that I have mentioned, was made, and that probably is the reason why Benchers who are not Silk gowns, now pay only 231*l.*, on being called to the Bench, the Silk gowns paying 100*l.* more, a regulation which I rather think, is of modern date. The fact is, the Silk gowns would come to the Bench earlier. The Stuff gowns at our Inn being seldom called to the Bench much under forty years standing after admission to the Inn, or before approaching seventy years of age; and therefore they thought that the other men ought to pay a larger sum for any benefit they might derive from Chambers.

478. Of what does the funded property of the Middle Temple consist?—It consists at the present moment of 44,755*l.* 5*s.*, 3 per cent Consols, and 15,000*l.* Consols, that makes altogether 59,755*l.* 5*s.* I will observe with regard to that, that it is utterly inadequate to do the absolutely necessary repairs and rebuilding of the Middle Temple. There is a difficulty about pulling the Chambers down, though they require it, because so many Chambers being let upon lives, we must get rid of those people or buy them out; and therefore we are rather lying by till we can get entire stacks of Chambers at our disposal, and until we have accumulated quite sufficient to make ourselves safe, in case that in pulling one stack down, another should come down with it. In all probability, if we were now to take a stack down upon an estimate of 20,000*l.*, 30,000*l.*, or 40,000*l.*, we should find that two or three other stacks would come down also, being merely kept standing by supporting each other, and these must be rebuilt.

479. Besides what you have stated, there are receipts from the Fees and payments made by Members of the Society?—Yes; there is a small piece of land outside the Temple, which brings in about 8*l.* a year, and there are some few acknowledgment rents, amounting to 6*l.* or 8*l.* more. There are also the rents of the Bench Chambers during the intervals between the time they are vacated by one Bencher, from death or otherwise, to the time they are chosen by another, which rents are carried to the credit of the Society, and in 1850 amounted to 40*l.*

480. Do you possess any property in the Inns of Chancery?—Yes; we possess the New Inn.

481. Does that Inn pay rent to you?—It pays a rent. It is upon a lease of 300 years, commencing a century ago, at a rent of 4*l.* a year; that was purchased by the Society; it was purchased by the Society about the same time as the Grant of James I.

482. Have you any other Inn of Chancery subject to you in any way?—We have not any other Inn of Chancery subject to us in any way. The way in which the lease of the New Inn was granted was, the property was the subject of an Ejectment brought by the Middle Temple to recover it, and a Chancery Suit to restrain them; at the trial of the Ejectment, it was referred to Lord Chief Justice Willes and two of the Judges of the Court of Common Pleas, to say what should be done between the parties. They determined that they should admit our title, that we should grant them a lease for 300 years, paying 4*l.* a year, with a covenant in substance to employ it only for Legal Purposes, they giving us a right of re-entry, if they let it to any person who was not in the Legal Profession, or employed it for other than Legal purposes.

483. What was the object of purchasing a place that was to produce 4*l.* a year?—I suppose when they purchased it, they did not mean to have it held on those terms. I really cannot tell the Commissioners how that was; I do not at all understand why that was, because it appears that at the time of the Charter of James I. it then was just what it is now. There was a head of that Society, and Ancients, like there is at the present moment; and from what I have read, it would appear originally to have been a common inn, nothing at all to do with the Legal Profession, but a common hotel. It was purchased by the Middle Temple somewhere about the time of James I., it is said. There was a dispute between the heir-at-law and the daughters of the deceased owner as to the right to the property, whether he made a will or not; I do not know whether this is true, but we purchased it probably of the heir-at-law, and probably, I suppose, purchased a doubtful title; and then, in three or four years afterwards, we purchased it of the daughters, so as to make our title secure. What took place from that time until the time when the dispute arose which led to the Ejectment and Chancery Suit, I do not know.

484. You have some other small quit rents, have not you?—Yes; for easements and other things, amounting to 8*l.* or 10*l.* a year, which are not liable to any Trust at all; they are outside the Temple. There are some little acknowledgments for sewers and things within the Temple.

C. H. Whitehurst, Esq., Q.C.

21st June 1854.

485. Do you send the young men now, as in former times, to the readings?—We have discontinued that practice only since these new Lectures have been established. We commenced lecturing in the year 1833. It was, in point of fact, the Lecture at New Inn improved; and that continued for about ten years, and then we had a new Lecturer. It then got into disuse, and finally we did not require them to attend. We have not chosen formally to abolish it, but it has been virtually abolished. There are no fines payable for non-attendance, nor is any person required to attend. There is another property, but it has nothing at all to do with us as an Inn of Court. It is a place called Scales's Inn, in Queen Street, Cheapside, and was probably at some time or other a house for the lawyers; however, if it ever had, it has nothing to do with the Law now; a person granted us that property, or rather gave to Trustees, who were to be Benchers, a rentcharge from it, to find an arbitrator who is to sit, during Term, once a week, in the Middle Temple Hall, to arbitrate upon all subjects, and between all persons, in Her Majesty's dominions.

486. Do you receive any income from that property?—We receive a rentcharge of 40*l.* a year; that is, there are certain trustees, and those trustees are Benchers, but it does not belong to the Society. We do not now enter it in the accounts, but it was so entered until I came into the examination of these things, some years since.

487. Who receives it now?—It is paid into the Treasury of the Society, and paid over to two arbitrators; the Treasurer for the time being has to appoint the arbitrators, and he does so.

488. Are there now existing two gentlemen who are ready to arbitrate if called upon?—Yes, there are.

489. Who fills that office now?—Mr. Best and Mr. Busk.

490. Are they expected to arbitrate gratuitously?—Yes; they receive 20*l.* each, and one of them hands it over very handsomely to the library, and the other, I believe, sends books to the library.

491. Will you proceed to state the income from the different Members' payments?—The fines on admissions amounted in 1850 to 212*l.*; for this last year they amounted to 237*l.* That does not give at all the correct figures, so as to form a comparison of the two years, but it cannot be done nearer, because the 237*l.* includes not only the fine for admission, but also the fees for the officers, whereas the 212*l.* is for the fines only, and the fees are mixed up with other items. In the year 1850, each person, a stranger to the Profession, entering paid a fine of 4*l.*, and he paid a fee to the officers of 3*l.* 8*s.*; if he was a member of another Inn, and was transferred, he paid a fine of 2*l.* only, instead of 4*l*; so that the admission fines and fees in the one case were 7*l.* 8*s.*, and 5*l.* 8*s.* in the other. That was the old system; now we have adopted a new system. Each person, when admitted to the society, pays 7*l.* 10*s.* for fines and fees, and 2*l.* 10*s.* to the library, making 10*l.*, which includes all payments. The sum received from Calls to the Bench in that year amounted to 1,124*l.* (not including Readers' fees), last year they only amounted to 331*l.*; there was but one person called to the Bench last year. In 1850, what are called Duties, that is, the annual or termal payments made, and certain fees, including those received on Calls to the Bar, but not those received on Admissions, amounted to 2,266*l.* 6*s.* 6*d.*; this last year they amounted to 2,461*l.* 17*s.* 8*d.* Then each Bencher, upon choosing Chambers, pays 4 guineas; in 1850, that amounted to 16 guineas. There are two Readers in the year, and each Reader pays, as before stated, 21*l.* to the Society; that makes 42*l.* every year. The officers' fees in 1850, which, amongst others, included the Admission fees and all other fees not included in the before-mentioned item of 2,266*l.* 6*s.* 6*d.*, amounted to 487*l.* 19*s.* 10*d.*; this year they amounted to 16*l.* 13*s.* 6*d.* only.

492. What are the officers' fees?—They are for searches, and fees for Admission, Calls to the Bar, &c.; that makes the difference between the sum received for Admissions this last year and 1850. The fines on Admission were 212*l.* in 1850. Then the fee for Admission, which is 3*l.* 8*s.* upon every Admission, is included in the 487*l.* In this year such fees having been abolished, the fees appear only as 16*l.* 13*s.* 6*d.* These latter are fees for searches and certificates, and a few fees of that description which still exist; all other fees are abolished.

493. Are fees paid by the Students upon entering?—A sum of 7*l.* 10*s.* is now paid as a fine, but not any fees. Formerly there was a fee paid of 3*l.* 8*s.* upon entering; that was divided. The Under-Steward had about 1*l.* 15*s.* as his fee, and the Butler and other officers had each something out of it. For about fourteen years last past, all the officers of the Society have been paid by salary, and receive no fees, the Society receiving the fees, and carrying them to the credit of the Society.

494. Do any of the Benchers receive any fees themselves; is there any income derived from fees?—None whatever.

495. They have nothing but the privilege of Chambers?—Nothing whatever; and we also pay 25*s.* a term during the time that we are Benchers, whether we have Chambers or not; but for that sum we may dine five times if we choose; we also pay with the rest of the Society an annual payment of 1*l.*

496. What does the Treasurer receive?—100*l.* The next item of receipt are the Dividends. In 1850 they amounted to 1,398*l.*; last year they were 1,601*l.* 17*s.* 6*d.*

497. Do you mean the dividend on the Funded property?—Yes; every person who has a

C. H. Whitehurst, Esq., Q.C.

21st June 1854.

Chamber upon two lives, and assigns it to anybody, pays a fine; and in 1850 the amoun derived from that source was 43*l.* 6*s.* 8*d.*; last year it was 40*l.* 1*s.* Then there is interest upon some small sums for that particular year, amounting to 36*l.* 10*s.* 1½*d.* Each Auditor pays 5*l.* if he does not attend the audit, and there were fines of 10*l.* that year, that made the gross income 12,347*l.* 9*s.* 6*d.*, with the exception of what was derived from the Commons. The Commons amounted to 1,520*l.* 18*s.* 6*d.* in that year.

498. The 12,000*l.* includes everything?—Yes, everything; all payments of all sorts and descriptions, casual or otherwise, which form the available funds of the Society. The last year the Commons received 1,169*l.* 17*s.* 9*d.* If you take in the Commons, that makes the gross receipts, 13,868*l.* 8*s.*

499. Now, will you give the Commissioners the amount of the disbursements?—The disbursements for 1850 were: Salary to the Librarian, 150*l.*, and to his Assistant, who is a mere Porter of the Inn, 47*l.* 12*s.* 8*d.* (this year the latter is a little more, 50*l.* 16*s.*), making in 1850, 217*l.* 12*s.* 8*d.* for the Librarian and Assistant; and the sum paid for books that year was 215*l.* 18*s.* 11*d.*, making altogether 433*l.* 11*s.* 7*d.* for the Library. Then, there are the church and the Master's house. We are obliged to provide a house for the Master of the Temple, and repair it, as also the Church.

500. That is a charge upon you?—Upon the two Societies jointly. The house was the property of the Middle Temple (how it became the joint property of the two Societies, I do not know), and so is the Church, and so is the Churchyard, and other portions of the property. The Temples provide a Reader. But I am not aware that there is any legal obligation upon them to do so. The Reader was not obliged to preach on the Sunday afternoon. The Bench, therefore, had to provide a Preacher for Sunday afternoon. They usually paid two guineas to the Reader, or provided somebody else. We pay half the Reader's salary, which amounted in the year 1850, to 100*l.* For the additional duty, which he performed in morning weekly service, he was paid by the Middle Temple 60*l.* He was paid also for his preaching in the afternoon, 56*l.* 14*s.* That is all done away with now. The Reader now, instead of those three sources, has a fixed remuneration of 300*l.* a year from the two Societies, that is, 150*l.* from each, so that it would now be 150*l.* against 226*l.* 14*s.* But the Church is more expensive now, because Mr. Rowlett, the late Reader, retired upon rather more than his full pension, and we now pay him a pension of 200*l.* a year; therefore, last year the expense to this Society of providing for preaching and the Church, including the pension, but exclusive of the Master, was 350*l.*, and will be, so long as Mr. Rowlett lives. The Master has 70*l.* a year. By the Charter, the two Societies are obliged to give him 16*l.* 6*s.* 8*d.*, but he was entitled, from a very ancient period, to receive certain fees from the different members of the Society, and about a century ago this Society compounded, and agreed to give him, in lieu of all payments due on their part, 70*l.* The Organist has 80*l.* a year from the Middle Temple. The Chorister Boys, 50*l.* The first singer, 50*l.*; the second singer, 32*l.* 2*s.* 8*d.*; the third, 21*l.*; the fourth, 21*l.*; the fifth, 32*l.* 2*s.* 8*d.*; the sixth, 25*l.*; the seventh, 27*l.* 6*s.* The Organ-blower, 36*l.* 8*s.*; the second, 25*l.* The Marble Polisher, 35*l.* The Sexton, 15*l.*; disbursements of the Sexton, 18*l.* 11*s.* 3*d.* Organist, extra, 25*l.* Prizes to children, 5*l.* Music, 10*l.* 19*s.* 7*d.* Insurance on the Church, 31*l.* 2*s.* 6*d.* Carpenters and other repairs 69*l.* 14*s.* 9*d.*, but this includes the repairs to the Church and the Master's house, and I cannot separate them. Tuning the Organ, 5*l.* Robes, 21*l.* 7*s.* 6*d.* Pianoforte, 19*l.* 19*s.* Sexton's disbursements, 13*l.* 2*s.* 10*d.* Hanging the Church with black (Queen Adelaide died that year), 36*l.* 1*s.* 8*d.* Coals, 16*l.* 15*s.* 6*d.*, which, not including the pension to Mr. Rowlett, makes the expense of the Church and Master's house that year come to the enormous sum of 1,009*l.* 6*s.* 11*d.* This year, the pension being added, half the expense will be between 1,100*l.* and 1,200*l*; that will be 2,300*l.* or 2,400*l.* altogether. The Master's house we must repair, and the Church, of course, we must keep in repair now, and there is a very large sum expended in repairs every year, keeping it in order, and dusting the columns. The next item is a payment in respect of the Revising Lists 15*l.*; that year we gave 15*l.*, which is about the sum we generally give, but we always slightly vary the amount. Then, in the year 1850, there are Coals and Lighting, 501*l.* 18*s.* 6*d.* Rates and Taxes, 732*l.* 11*s.* 7*d.*

501. What are those Rates and Taxes upon?—The Police rate in that year was 406*l.* 5*s.*

502. Do you pay the Rates upon the whole Inn?—We do not pay the Assessed Taxes, upon any portion not in our actual occupation. We pay the rest of the rates; there are no Poor-rates, the property is extra-parochial. Last year the Police rate was 433*l.* 6*s.* 8*d.* We derive no benefit from that. We do not admit the Police to come in. The Water rate was 53*l.* Property tax, 235*l.* 2*s.* 10*d.*; this year it is 265*l.* 15*s.* 11*d.* This does not include the tax on the Bench Chambers or Chambers out on lives, which is respectively paid by the holders. Assessed taxes, 38*l.* 3*s.* 9*d.* Then the insurance, exclusive of the Church, is 198*l.* 13*s.* 10*d.*

503. For what amount do you insure?—About 200,000*l.*; it has been reduced. We have made a better bargain lately, but we are all satisfied that we ought to be our own insurers. We have never been able to insure ourselves, because we have not the funds; we must begin with a fund of 20,000*l.* or 30,000*l.* in case a fire should happen. In 1850 there was a Serjeant's fee. We give a Serjeant 10*l.* always when he leaves us during Term. There was a deserted child that year, on the maintenance of which was expended 9*l.* 2*s.*, and a

C. H. Whitehurst, Esq., Q.C.

21st June 1854.

donation of 45*l.* was made to hospitals and dispensaries. Pensions to retired officers, that is, servants, 158*l.* 12*s.* This year it will be 250*l.*, on account of the Clergyman's retiring pension. The law expenses were 4*l.* 2*s.*

504. That seems a very small amount?—I suppose the bills were not all paid that year. They are, upon the average, about 20*l.* or 30*l.* a year. Stationery, postages, and other expenses of the office, 69*l.* 10*s.* 7*d.*, and the repairs, 2,481*l.* 10*s.*

505. Was that an extraordinary year or an average year?—I should think it was about an average year. That amount includes repairs to things in the Hall, to the knives and forks, and also putting up some arms in the windows, and also some new chandeliers and lamps in the Hall. On the whole I should say it is rather above the average, but the repairs would generally fall very little short of that. At this present moment we have discovered that there is a building which we are afraid will come down, if extensive repairs are not done; they are at work upon it, and we do not know at all what the cost of it will be. I should say that that is not an extravagant sum. The officers' salaries, not including the Librarian, or Reader, or Preacher, amount to 2,795*l.* I will give the list of them: Sub-Treasurer, 600*l.* a year, and Chambers; Clerk to the Sub-Treasurer, 150*l.* a year; the Treasurer, 100*l.* a year; the Surveyor, 100*l.* a year; the House Steward and Verger, 150*l.* a year; the Chief Butler and Verger, 150*l.* a year; the Bench Butler, 120*l.* a year; the Puisne Bench Butler and Verger, 70*l.* a year; Assistant Bench Butler, 30*l.* a year; Bar Butler and Verger 40*l.* a year; Puisne Bar Butler and Verger, 40*l.* a year; Assistant Puisne Bar Butler, 30*l.* a year; Bench Waiter, 30*l.* a year; Pannier Man, 40*l.* a year; Wash-pot, 60*l.* a year; Cook, 75*l.* a year; Under Cook, 70*l.* a year; Head Porter, 70*l.* a year and House; Under Porter, 60*l.* a year and house; Gardener, 60*l.* a year and house; Laundress, 22*l.* a year; two Warders, 78*l.* a year; eleven Watchmen, 330*l.* a year; fourteen Waiters, 280*l.* a year; Assistant to Butler, 10*l.* a year; and Rubbish Carter, 30*l.* a year. That is 2,795*l.* There is also in that year 44*l.* 13*s.* paid for liveries, and 281*l.* 9*s.* 11*d.* for the allowance to servants, for money paid by them, and materials purchased for the performance of their duties.

506. What is the total expenditure for the year 1850?—11,007*l.* 13*s.* 1*d.*

507. Have those last items, of which you have been speaking, been under your consideration at all, or have you taken them as you find them?—I take them as I find them. I have considered them, and I do not think that any serious reduction could be made in the amount.

508. You stated that for the Bar table, there were two Butlers, and a third man?—Yes, there is a senior Bar table, and a junior Bar table in our Hall; each table consists of twelve men. The top mess is called the Bar mess, consisting of four only on each side of the Hall; the four on each side have a Waiter, who is also to assist the other eight below; then there is close to each table, another Waiter, that is, there are two Waiters to each of those tables.

509. Do not some of them get 70*l.* a year?—Not the mere Waiters, only the Butlers.

510. What offices do those two Butlers to the Bar perform?—They get 30*l.* a year for waiting at table, and then they are also Vergers at the Temple Church, for which they get 10*l.* a year more. First of all the House Steward has 150*l.*, and the Senior Butler has 150*l.*

511. He is the responsible person with reference to the wine; is not he?—No, the Bench Butler is the responsible person with respect to the wine; he has 120*l.* The House Steward is responsible for everything, all the servants, the plate, the linen, and everything else. The Senior Butler has the business of taking down the names of those who dine in the Hall, and he had formerly other duties; but when the present Chief Justice of the Common Pleas was Treasurer, he appointed this House Steward, which was a new office. Then there is a man at 70*l.* a year, and he waits on the Bench, and waits also at the Parliament Chamber, and assists in cleaning up the plate, &c. I have turned my attention to this, with a great desire to make some economical arrangement. I have had an order made, that four of those offices shall not be filled up when vacant, and two have become so; but that was entirely owing to the fact, that the Hall now is not so full as to require them. We give the ordinary Waiters 5*l.* a term.

512. Can you give the Commissioners the average number of Students dining in the hall?—In the year 1850, Hilary Term, 146; Easter, 159; Trinity, 147; Michaelmas, 144. That is men who dine in the Hall.

513. You do not mean that there were only 159 dinners eaten?—Only 159 different persons.

514. On any given day there probably would not be above half that number?—Nothing like half. Last year, in Hilary Term, there were only 101; in Easter, 102; in Trinity, 95; and in Michaelmas, 92.

515. Does that decrease arise from there being a less number of men Members of the Inn, or from fewer dining there?—It arises from a less number of men being Members of the Inn. The entries have fallen off. I should think the entries in the last five years have fallen off one half, or certainly a third.

516. Do you attribute that in any way to your Chambers being in the condition that you have described?—No, I think not. In 1851, we had 49 admitted; in 1852, 41 admitted; and last year there were only 32 admitted. Ten years ago there were 70 or 80, or 90 admitted. The other Inns, no doubt, have fallen off also.

517. What do you charge for the Commons, at this present time?—A Bencher is

C. H. Whitchurst, Esq., Q.C.

21st June 1854.

charged 1*l.* 5*s.* every term, whether he dines or not, for which he can dine five days. If he dines more than five times he is charged 5*s.* for each subsequent day, and 2*s.* additional in case he dines on a Grand day. A Barrister pays 3*s.* 6*d.* for each day he dines in the Hall, and 2*s.* for a Grand day; but he is not obliged to dine at all. A Student pays one guinea per Term when dining, which entitles him to dine six times, and he pays 2*s.* 6d. for each day he dines beyond the six.

518. Have you turned your attention to the question of Legal Education. You are aware what has been done in the last two or three years, by the different Societies. Do you think that the existing plan has worked well?—I should say it had failed decidedly. I know nothing of it, but from the Returns of the attendance at the Lectures, copies of which I sent the Commissioners. According to these Returns, it appears that the average number of students attending our Lecturer at his Private Classes was only about seven or eight from all the Inns of Court. Supposing that number is divided equally between the four Inns, it would give two from each Inn. This would not be quite a proper way of doing it, because the Inner Temple has at least twice the number of Students that we have, and Lincoln's Inn two or three times the number; so that our proportion would be little more than one Student attending the Lecturer. If you divide the number equally, it gives only two Students from each Inn.

519. The Private Lecture is no expense to the Inn, is it?—We provide a Chamber, and it is, in some other respects, an expense to the Inn. I place much greater reliance, myself, upon the test of the Private than the Public Lectures. The great outcry against the Inns of Court was, that they did not provide any means by which a young man could be instructed as to the course of study he should pursue, or person to apply to in case he met with difficulties in the course of his studies; that he was left at sea entirely, and, therefore, it was said that it would be a very good thing if the young man could find some person to whom he could apply, to point out his course of study, and to whom he could have recourse, when he was in a difficulty, to assist him with advice and information. Now, the Private Classes, as I understood, were instituted expressly to supply that want; and in Gray's Inn, I have heard that they did that very much; that the Lecturer there took very great pains with his Students, and talked to them after the Lecture. If, therefore, the Students really felt that want, and desired the instruction and information, they would attend the Private, and not Public Lectures. The Returns show they will not attend.

520. No one would be entitled to receive that instruction, unless he pays for attending the Private Classes?—No; but the payment is limited, and very small. Attendance at the Public Lectures proves nothing; they are not voluntary, they are compulsory; men must attend those Lectures in order to be called to the Bar: but the Private Lectures are perfectly voluntary, and are meant to meet the very thing that all the complaints were about. And yet it appears, in the most favourable view of the case, that only two out of the whole body of the Students in our Inn, which may be taken at 150, and a much smaller proportion of the Students of Lincoln's Inn and the Inner Temple, have ever availed themselves of them. The last Return was not so much. This appears to me to show the plan is a failure. As to Public Lectures, my own opinion is, I will not say that they are absolutely useless, because no source from which any knowledge can be acquired can be called absolutely useless; but, at the same time, I think they are of very little value; and the number attending them is very small, though attendance is compulsory.

521. Independently of the present system, and without reference to any particular system, do you think it would be desirable that some course of education should be prescribed, and that men should be compelled to go through it, before they are admitted to the Bar; or, do you think the present system of admission, without any Examination whatever, but having merely dined so many days in Hall, is preferable?—I do not think that such Examination is really of any use. I think the advantage of dining in the Hall, is associating together. The question of men associating together, I think, is of very great importance.

522. What object do you propose in any institution like an Inn of Court, apart from some connexion with education?—A very valuable one with regard to the Bar, that is, controlling them; it is a controlling power. I do not mean to say that if the Courts were to take it upon themselves, like they do with regard to Attornies, it might not have the same effect, but a better power than that of any Court, is that equitable power that you have vested in the Benchers of the Inns.

523. And there is also the advantage of association?—Yes.

524. Do you think it should be left entirely to a man's own choice whether when he came to the Bar, he was fitted to discharge the duties of a Barrister?—I do not think it is of much consequence. If he is not qualified, he will get no business, and if he is qualified, he will get business; and it must be considered, that the question is not solely as to a man being a Lawyer, that is, well read in Law. Some of the very best, and first Advocates at the English Bar, were no Lawyers; they were very ignorant of Law. The Profession must be looked at, not as a mere profession of jurisconsult, to advise. The Inns of Court are rather considered as places where people are educated to be Advocates.

525. Some are also to be jurisconsults?—Some few may start with that view.

526. Do you propose, however, simply the getting of business as a criterion of whether a scheme answers or not?—I think it would be a very good test of it. I do not say the only one. A business might be got by very improper modes.

C. H. Whitehurst, Esq., Q.C.

21st June 1854.

527. Is discharging the business ably, a single test; is not it desirable that a Lawyer should be a man well informed, and of liberal education, and that he should also have a good general and well grounded knowledge of the Law as a science?—Certainly.

528. If it is left entirely to a young man's own choice, what he will do, is not there a danger that in a great number of instances, he will rather be looking to the acquisition of that which will get him business, than anything else?—I do not myself see that; practically speaking, I do not think it would make any difference, because a man who really intends to work, will work; there are many men who have no serious intention of ever working for their livelihood; but those men who do intend to work for their livelihood, go into a Pleader's, or an Equity Draughtsman's office, as the case may be, and there they get the only instruction which is valuable to them; because, unless you have a private tutor established at the Inns of Court, who would do what should be done in those offices, I do not think it is of the least use.

529. The Lecturer himself can convey no information to those not willing to acquire it; but do you not conceive that if parties were examined at the end of the year, upon the subjects of that Lecture, they might be induced to pay attention to it, and might be induced, for their own sakes, to profit by it, knowing that they were to be examined upon it?—Some would, I have no doubt.

530. Do you think that if the desire of advancement in the Profession to which the individual is about to devote himself, does not induce him to acquire that amount of knowledge which would be essential to his doing well in the Profession, he will not be induced to acquire knowledge for the sake of passing through a Public Examination with credit?—Probably not.

531. Do you think the desire to avoid being disgraced, by his being refused, would operate so as to compel him to render himself master of his Profession, to a certain degree?—Supposing the Examination was instituted, it must be conducted in one of two ways. You must either tell the young man beforehand what he is to be examined in, or you must not. If you do not tell him what he is to be examined in, I might pick some of the first men in the kingdom who would be puzzled to answer one half of the questions put to them. You might have fifty different subjects brought before a man, and he might be ignorant of every one of them, though a very clever well-read man. If you do tell him the questions which he is to answer beforehand, almost any person would get them up. You must of necessity give them at least the substance of what they are to be examined upon.

532. Supposing your present system of Lectures were done away with, supposing things were in the same condition as they were before this move was made, and a young man entering the Middle Temple should be desirous of informing his mind more generally than merely by getting a knowledge of Special Pleading, or Equity Drawing, and so on, is there any mode by which he could get at that general knowledge to direct him in what way he should read usefully?—Not that I am aware of, except from books written upon General Jurisprudence and the study of the Law.

533. With respect to Constitutional Law and Civil Law, was there any mode by which a man was likely to be directed to acquire a sufficient knowledge of Civil or Roman law?—I think that a great mistake is made with regard to the subject of education, in not considering who the parties are who come to the Inns of Court to be educated, because they do not come as boys of fifteen or sixteen, nor is it desirable that they should do so, in my opinion. A young man comes at twenty, or twenty-one, or twenty-two, as the case may be, sometimes from College, and he has had, or ought to have had, there a preliminary knowledge of the very things mentioned, and then he ought to come here, not to learn those preliminary matters, but to earn his bread; nine-tenths of the people do so. It is time that a young man of that age should gain his bread. I think practice is so necessary to the acquirement even of theory in law, that they must go together.

534. It seems that you are excluding them?—I think that a man should go into Court, and that that is the best Lecture he could have. I am supposing him to be in the office of a Special Pleader, of course, at the same time.

535. It has been considered necessary to have an Examination preparatory to the admission of a Student: is that your view?—Certainly not, but I think that raises another question. An Examination presupposes that you mean to reject the man if he cannot answer the questions that you put to him; because otherwise, it is a mere idle piece of ceremony, and therefore you must assume that unless he has a certain degree of knowledge, you will refuse him. What is to be the degree of knowledge required? The other day an observation was made by the Commissioners, in answer to a question whether Latin and Greek should be considered as a necessary qualification for a man being admitted to the Bar. I say decidedly not. Why should a man who never opened a Greek or Latin book not be a Lawyer? I believe a great many men have risen to great eminence in the profession, who never knew Latin or Greek.

536. Latin or Greek was only mentioned as a part of a gentleman's education?—I should like to have defined what extent of knowledge, and of what nature, is meant, with respect to the term "Education;" it may mean anything; some think it means Latin and Greek, which no doubt everybody did a few years ago; people have a different notion now-a-days, but that was the notion, no doubt, at one time.

C. H. Whitehurst, Esq., Q.C.

21st June 1854.

537. What do you think is the principal value of making a person go through the ceremony of having his name three years on the books of an Inn of Court before he can be called to the Bar?—Merely associating him with Lawyers, and keeping him at the spot to the work.

538. Could not all such benefits as are now conferred upon the Students, by way of association, or by the instructor acquiring a knowledge of them, be acquired in one year as well as in three?—I should say not, as respects the association.

539. Do you set much value upon such association as goes on in the Hall?—Not with respect to the conversation between party and party; but I attach very great value to association, so far as professional conduct is concerned.

540. The only thing you stipulate for, is six dinners in Hall per Term, for the young men?—They do not confine themselves to six dinners. We required something more formal, and it was the Council of Legal Education who imposed upon us the number of six dinners and three dinners; it is six if you do not belong to the University, three if you do. I cannot say I agreed with them in the alteration, but my notion was, they having so decided, we should have carried out their views, and have only charged persons each day they dined. An University man would then have kept his Terms by paying three half crowns, whereas another man, not an University man, would have had to pay six; others, however, were of a different opinion, and it was said, we will put you upon an equal footing; hence, our present new rule; but I still think it is no improvement on the old.

541. Has anything occurred to your mind that you could suggest to the Commissioners as an improvement upon the present system?—No; practically, I do not think you could improve upon it; theoretically, I can suggest converting the Inns of Court into Colleges.

542. You have very considerable Professional experience. Do you think that the members of the English Bar are, upon the whole, as well educated as they ought to be in their own Profession?—I should say that they are. I should say that they are as well as you can expect men to be educated, taking them as a mass.

543. Do you think that they possess as large an amount of general knowledge as they ought to have?—Not so much as I should wish them to have.

544. Or so large as they might have under some system?—I think that they might be very much improved in that respect by some system; what I should certainly recommend to a person, as a Student, who asked my advice, would be to take a much more enlarged view of the Law. I should not recommend a man merely to take Chitty upon Pleading, and confine himself to the mere technicalities of our Law.

545. That being so, do not you think that it is in some measure the duty of the Inns of Court to do what they can for the purpose of improving the Students in that respect?—Yes, if there is any practical mode of doing it,—which I much doubt.

546. Has it ever occurred to you, that perhaps one reason of the want of expansion and extension in the professional knowledge of English Lawyers is the immense complication of the Law which they have to study, and that it is quite enough to engross the whole of the powers of one man's mind to make himself master of it?—I think, as a general rule, it could not be done. A man wants to establish himself in life, and many men have not the means, and their parents have not the means, of maintaining them. All this system of liberal education, though highly proper, involves a man getting nothing for himself, and being a burden to his family and friends a great many years.

547. You think that it would require more time than three years for a man to get himself competently grounded in Law?—Incomparably longer; that is, in Jurisprudence generally, and also to enable him to practise skilfully. If a man was heartily to set to work to ground himself, I dare say he might, in three years, get a good knowledge of Jurisprudence in general.

548. With reference to the advantage of association, is not it found in the Universities, that the literary intercourse of the Students is valuable in stimulating them, in consequence of the pursuits that they follow; might not some similar result to that be produced, if the young men who are preparing for the Bar had a common course of Lectures, a common course of Examinations, and a common course of Law subjects, to pursue at the University and converse upon?—It might. I was going to state the fact, that at this present moment, there are only fourteen Students residing in the Middle Temple; in fact, I believe there are only twelve who have Chambers.

549. You are aware, of course, that from the necessities of the government of the United States, consisting as it does of so many independent States joined together, they have constantly to deal with questions of International Law, as well as Common Law. They have our Common Law, they have our Statute Law, down to the time of the separation, and they have their own perpetually increasing Statute Law, by Acts of Congress. In addition to that, a great number of the States are upon the sea-board, and they have constantly Admiralty questions arising. Now it appears, that the same Barristers or Counsellors, are practising in all those different branches, and it has never been suggested that the American Lawyers do not argue cases with as much learning and information, as Lawyers in this country?—The American Lawyers argue cases quite as well as the English Lawyers I think, judging from the printed Reports.

550. It is a remarkable thing, that you could hardly find a Barrister in England, or a

C. H. Whitehurst, Esq., Q.C.

21st June 1854.

Judge either, that would be competent to take that variety of Law, and deal with it?—I do not know that.

551. And yet, you find that the American Lawyers can do it. The Commissioners have evidence before them, of gentlemen, with no more apparent education than Lawyers have in this country, who nevertheless are fully competent to engage in this great variety of cases?—I take it, that a Judge or a Barrister here, if it was necessary, would very soon get a competent knowledge of those different branches of the Law, so far as to be able to argue cases, because we know that very ignorant men sometimes argue cases very plausibly. They have good memories, and get them up, or they are got up for them.

552. Did you hear a question, which was propounded to a witness at the last meeting of the Commissioners, whether it had occurred to him—the Students being divisible in a rough way into two classes, those who come intending to practise, and those who are only fitting themselves for Parliament, Country gentlemen, and Magistrates, and so on—that an admission to the Bar of two kinds would be practicable?—It would be practicable, certainly.

553. But without throwing discredit upon the one class?—Certainly not. Those who have not passed an Examination at all, would have a nickname applied to them directly; possibly from the "wooden spoon" of Cambridge, they might be called "spooneys," or by some other disparaging epithet; that would be only one way of making an Examination compulsory.

554. Do you think that that would have the effect of deterring the class that has been alluded to, one which it is very desirable not to exclude, from coming to the Inns of Court, and being called to the Bar?—I have no doubt at all about it.

555. You think that an Examination would have the effect of shutting out all that class of persons who come now merely for the name and the degree?—I think it would. Upon the subject of the figures I have given, I wish to observe that upon the statement of the Under Treasurer's accounts for the last year, it probably would appear that the expenditure of the Society exceeded the income by at least 600*l.*; but that is not in truth so, and arises from bringing everything into the accounts; there would, in truth, be a balance of, I daresay, a couple of thousand pounds in favour of the Society. There was a surplus of 2,850*l.* 14*s.* 1*d.* in 1850, but that allows nothing at all for rebuilding. I wish further to observe that, assuming the whole income received by the Society from the Real Estate, however acquired, and under whatever Trusts it may be held, to amount to, say, 7,000*l.* per annum, and excluding all eating, and all the servants and expenses connected with the eating, and supposing there was not a single dinner given in the Hall, the expenses for one year, including the Church and Library, amount to more than such income received by the Society, say, to the sum of 7,358*l.*, and that without allowing anything at all for rebuilding.

556. You were saying, that the Inn did not repay itself. You are in possession of a large house property, in a very valuable part of London, and you do not make your rents pay?—We do not, letting the Chambers to the Members of the Inn.

557. Letting them at the same rate at which you let them to strangers?—We pay a great many other things than an ordinary landlord does. We pay for Lighting, we pay for Insurance, we pay for Church service, a Library, for coals, we pay for rates, we pay for servants, for watching, and we pay for all the repairs. I will show the particulars. I take 7,000*l.* to be the rents actually received by the Society. There is the Library, 433*l.*; Coals and Lights, 500*l.*; Rates and Taxes, 732*l.*; Insurance, 198*l.*; Stationery, &c., in the office, 69*l.*; Officers and Servants unconnected with dining or the Hall, 1,595*l.*. and their expenses, say, 150*l.*; and the Repairs, 2,481*l.* These sums amount altogether to 6,158*l.*; the Church and the Master's house to 1,200*l*, making a total of 7,356*l.*

558. You contributed the same amount as the Inner Temple, to the rebuilding of the Temple Church?—A little more. There are, Servants 1,595*l.*, that is entirely taking out everything relating to eating and waiting; the 150*l.* is exclusive also of these subjects.

559. Independently of the Library, and the Coals, and so on, which come in a round sum altogether to about 1,000*l.*, any capitalist would give you a vast amount of money for your site?—Yes, no doubt of it.

Mr. Edward Eldred, examined.

Mr. Edward Eldred.

21st June 1854

560. You are the Sub-Treasurer of the Middle Temple?—Yes, I am.

561. You attend before the Commissioners at the request of the Society?—By the direction of the Treasurer.

562. Are you ready to give any information to the Commissioners that may be required of you?—Yes.

563. Would you be good enough to put in a sort of tabular form, the Income and Expenditure of the Middle Temple, for 1850 and 1853, under their different heads?—Yes.

564. Will you be able to give the average number of persons dining in the Hall daily?—Yes, I will do that.

565. Will you also furnish the Commissioners with a copy of the Covenant in regard to New Inn?—Yes.

Adjourned to Tuesday next, at 4 o'clock.

Tuesday, 27th June 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

C. H. Whitehurst, Esq., Q.C.

27th June 1854.

CHARLES HOWARD WHITEHURST, Esq., Q.C., further examined.

566. Do you wish to add some statement to your former evidence with reference to the deposits?—Yes, I wish to state the amount of deposits, which was omitted to be stated the other day. Before keeping Commons serviceable for being called to the Bar formerly, and now, upon admission to the Inn, each Member, if not a Member of one of the Universities of Oxford, Cambridge, Dublin, London, or Durham, or a Barrister of another Inn, or Student of another Inn, having kept all his Terms there, to qualify his Call to the Bar; or of the Society of Advocates in Scotland; or a person admitted only for the purpose of keeping Terms for being called to the Irish Bar, pays a deposit of 100*l.* as caution money. This is returned to him on being called to the Bar, or withdrawing from the Society, (or in case of his death, to his representatives); or on his producing a certificate that he has kept two years' Terms at one of the above Universities, or is a Member of the College of Advocates, deducting what may be due to the Society. Those deposits are not the property of the Society, but are merely deposited as caution money. The only benefit that the Society legitimately derives from them is the interest, and as they must, of course, invest them (because they cannot keep such large sums in their hands), the principal may be a source of loss to them; for, if they invest at 100, and are obliged to sell out, to pay the deposit, at 90, they would lose 10 per cent. upon the deposits. Therefore, the principal of the deposits does not form any ingredient in their annual income, but merely the interest. The amount of deposits at this time remaining in their hands, is 11,500*l.*

567. Was that included in your Statement of the funded property of the Society?—It was included in my Statement of the Funded property of the Society, and, therefore, it ought to be deducted from the amount.

568. Is it 11,500*l.* money, or stock?—Money.

569. That is to say, you must deduct from the amount of stock which you gave, an amount of stock equal to 11,500*l.* in money?—Yes. The amount actually paid and received for deposits does not show any correct account of annual income. In the year 1850–51, the amount received for deposits was 2,300*l.*; the amount paid out was 4,000*l.* In 1851–52, the amount received was 2,000*l.*, but the amount paid out was 3,900*l.* In 1852-53, the amount received was 1,800*l.* only; the amount paid out 3,700*l.* Therefore, if you were to take these amounts merely, it would seem that the funds of the Society were not sufficient to pay the expenses of the Society; but that would be an improper way of taking it, because the difference between those two sums ought to come out of stock. It does not actually come out of stock, because we have floating money to pay it with.

570. How is it that you have so large an amount of deposits?—They accumulate. If you take fifty admissions in one year, and suppose twenty of those to pay a deposit, or thirty of them to pay a deposit, (the other twenty being Members of a University, and exempted from paying it), that would give you a sum of 3,000*l.*, and then that will accumulate. It has been accumulating for years. This is the remains of the accumulation.

571. A series of years have occurred in which you have had to pay more than you received?—Yes. I have stated that in one year we paid 3,700*l.* and only received 1,800*l.*

572. Does it ever happen that the deposit is not demanded back?—I think that is possible, but I am not prepared to answer that question. There may be an instance or two of it.

573. But it is not of frequent occurrence?—No.

574. If it is not of frequent occurrence, how has such an accumulation taken place?—We have about fifty Students a year. Formerly we had 150 in a year; but taking it at fifty a year, and supposing that thirty paid the deposit, that would be 3,000*l.*, which remains in the hands of the Society during the three years that those Students must remain before they are called to the Bar; and many people are not called to the Bar for many years afterwards. A Special Pleader, for instance, is often many years before he is called to the Bar.

575. Have you some further information to give us with respect to New Inn?—I have got a little more information as to New Inn. On the 4th of February, 6th. James I., John Smith, described as of Bordley, Essex, covenanted, in consideration of 200 marks, paid out of the Treasury of the Middle Temple, to convey by Recovery the entirety (which is particularly described) of New Inn to Sir H. Montague and other Benchers of that Society. The property is therein described as then in the possession or occupation of the Principal, Ancients, and Fellows, resident in the said capital Messuage, or great House, called New Inn. Smith accordingly enfeoffed the above Benchers, and suffered a Recovery, &c. Afterwards, Lucy and Margaret Smith, daughters of Edward Smith (that is another Smith, the father, I believe, of that John), in consideration of the 90*l.* paid out of the Treasury of the Middle Temple, covenanted to suffer a Recovery of the premises in question. A Feoffment was executed, and fine levied. In 1740, the Middle Temple brought an ejectment for New Inn, and on the trial, before Chief Justice Willes, an order of Nisi Prius was made for settling all disputes, which was not done until 17th April 1744. And then, by Rule of Court it was ordered that the Society of New Inn should acknowledge

C. H. Whitehurst, Esq., Q.C.

27th June 1584.

the title of the Trustees of the Middle Temple, who should grant a lease of the premises, to be settled by Chief Justice Willes, and two other Judges of the Common Pleas; and, that a Bill in Equity, filed by New Inn, should be dismissed. On the 25th October, 1745, the Trustees granted a lease for 300 years from Midsummer, 1744, to certain persons, Trustees for the Society of New Inn, at 4*l.* per annum. The premises are therein fully described. Then I wish to call the attention of the Commissioners to the terms of the Deed of Partition in 1732, between the two Societies. The Habendum in the Deed of Partition, as to the Middle Temple, is as follows: "To have and to hold the said Inn of Court, called the Middle Temple, Messuages, Gates, Chambers, Buildings, Courts, Ground, Soil, Moieties, and other the Premises belonging to the Middle Temple, herein bargained and sold (except as herein excepted)," which is not important "unto" (the grantees), "their heirs and assigns in trust, nevertheless, to and for the use and purposes appointed in and by the above recited Letters Patent" (the grant of James I.) "that is to say, to serve and be employed for the entertaining, education, and habitation of the Students and Professors of the Law, residing within the Middle Temple, from thenceforth for ever." Now, I would suggest to the Commissioners, that looking at the Grant of James I. and recollecting as matter of History the disputes that were then, and which have always ever since been, existing between the Common Lawyers and the Civil Lawyers, it is quite clear that the Grant of James I. emphatically meant to confine the Middle Temple and the Inner Temple to the Students of Common Law. I believe that nothing can be more plain than that those words were introduced to exclude the Civil Law. We know perfectly well the feuds that at that time were existing between the Civil Lawyers and Common Lawyers, each trying to establish their own system. And it it very clear indeed, both in the recital of the Grant of James and in the Habendum, that it was meant to be confined to the Common Lawyers.

576. Is there any other point upon which you would wish to make any suggestion?—I would suggest, that if any alteration is made in the constitution of the Inns of Court, it is very desirable, in my opinion (but it must be taken as my opinion only, not as coming from the Treasurer of the Middle Temple, or as speaking the sentiments of any other person), that they should be made a Corporation. After the decisions which have been come to respecting Public Bodies, I think there would be very great difficulty in persuading the Benchers to make contracts for the very extensive rebuilding which will be necessary, so as to make themselves personally liable. The only way in which it has occurred to me that the difficulty could be got over, would be by a stipulation which is sometimes introduced into Policies of Assurance, namely, that the parties making the contract shall in no way be personally liable as to their goods and chattels, but that the funds of the Society alone shall be liable for the contract. I do not know any other way of doing it. I think there would be very great difficulty in inducing the Benchers to become contracting parties without.

577. Have you considered at all whether it would be expedient, besides having the Inns of Court as separate Corporations, to have general Corporations, similar to a University, for the whole Faculty of Law, treating the Inns as Colleges?—I am not prepared to answer that question directly; but I think it would be desirable to have some general understanding amongst them all, or some general rule, as to the Admission and Call to the Bar, amongst them all.

578. You think unity of action very desirable?—Unity of action, I think, is very desirable. I have not considered the other question, as to the means in which Legal Education should be carried out; but I think it would be very desirable indeed, that all the Rules as to Admission, and as to being called to the Bar, and the time of keeping Terms, and the fees to be paid, should be the same in all the Inns of Court.

579. Is there much difference between the fees paid at the different Inns of Court?—About a year ago, or rather more, a suggestion was made, and we abolished all the fees, and we now have a fixed fee upon entrance, of 7*l.* 10*s.*, and 2*l.* 10*s.* to the Library, making 10*l.* There is no other fee payable, except 1*l.* a year. There used to be a difference between the Benchers, Barristers, and Students, amounting to about 14*s.* or 15*s.* a year for the Students, and 2*s.* or 3*s.* for the Barristers. That we abolished also; and now, all persons, whatever they may be, Benchers, Barristers, or Students, pay on the 1st of January, in each year, 1*l.*, and that frees them from all other payments. They pay when they are called to the Bar, the sum of 35*l.*, and 2*l.* 10*s.* to the Library, making altogether 37*l.* 10*s.* Those are all the payments they make; they have no other payment to make, except for Commons, and they pay no Absent Commons now.

580. Do you think that the circumstance of the same amount being payable in each of the Inns might have the effect of giving an undue advantage to some of the Inns of Court which possess peculiar local advantages?—I think not. If it did, I think that would be amply compensated by avoiding any petty rivalry. I think it would be very desirable to do so. Of course, one Inn of Court might reduce their fees very much, and by that means get a few Members; but the sums paid are really very small. As I stated in the communication I made to the Commissioners, the whole expense of being called to the Bar, including Commons and everything else, is between 70*l.* and 80*l.* That is the whole expense that a person need incur, except for tuition, or going to a Pleader.

The witness withdrew.

F. Whitmarsh, Esq., Q.C.

27th June 1854.

FRANCIS WHITMARSH, Esq., Q.C., examined.

581. You are the Treasurer of Gray's Inn?—I am the Treasurer of Gray's Inn, for the second time.

582. Can you state the history of the foundation of the Inn?—The origin of the Society of Gray's Inn seems involved in a great deal of mystery; for, in fact, we cannot trace the period when it was first formed. It is clear, that the property of Gray's Inn was originally belonging to the Lord de Gray's family and it is clear also that we must have held by some demise or agreement under that family for a long period of time, because we find that the De Grays had the property from the time of Edward the Second down to the time of Henry the Seventh; and in the intermediate period, that from Edward the Third's time, we held the property of the De Gray family. But there is no trace whatever to be found, with regard to the terms upon which we held it.

583. What is the earliest muniment that you find?—The earliest muniment that I find is of the 27th of Henry the Seventh. That appears to be a bargain and sale by Lord De Gray, to Hugh Dennys and his heirs. It shows that the fee of the property was in the De Gray family. The Dennys family held it for a considerable period. And then, I find that under an *Inquisitio ad quod damnum* of the 7th of Henry the Eighth, there having been an escheat to the Crown of the manor of Portepole with the appurtenances, &c., by a person of the name of Chigwell, dying without heir; which Chigwell seems to have taken it from the Dennys family. Upon that Inquisition, it was found, "that the same Manor, and other the Premises, with the Appurtenances, are worth yearly, in all issues, beyond reprizes, according to the true value thereof, 6*l.* 13*s.* 4*d.*" In the 7th of Henry the Eighth, there was a license granted by the Crown, to the Prior and Monks of Sheene, to hold in mortmain, lands to the extent altogether of 100*l.* per annum; and this property, the Manor of Portepole and Gray's Inn, formed part of the land so granted by Henry the Eighth to the Prior and Monks, to hold in mortmain.

584. When do you find it first described as Gray's Inn; is it in the Conveyance to the Dennys family?—No, it is not. It is there called the Manor of Portepole; and then it describes the present premises and so many gardens and so many houses, and so on.

585. On what ground do you say that the Society held it, in the interval between Edward the Second and Henry the Seventh. What trace do you find of it?—I find a trace of it in Dugdale, and other older writers. I find that it was held by the Society of Gray's Inn, or at all events it was occupied by them at that time. In Edward the Third's time, it is stated that the Society of Gray's Inn was in possession of the property.

586. Are those documents of which you have been speaking, original documents that you find in Gray's Inn, or were they copies of old documents?—They are documents found in the Public Records. Those documents were proved upon a trial between St. Andrew's Holborn, and Gray's Inn, with regard to Poor Rates, in the year 1830, and are copied from the brief containing the documents that were proved in Court.

587. You nowhere find any trace of any express Trust, in any document upon which the Society hold the property?—None at all. I wish to show how we became possessed of the property. The Prior and Monks of Shene held this property till the dissolution of the Monasteries in the time of Henry the Eighth. Then it was seized by the Crown; and we have traces in our books of a fee farm-rent of 6*l.* 13*s.* 4*d.*, being paid by Gray's Inn to the Crown, in Henry the Eighth's time. It continued in the Crown until the time of the Commonwealth, and we continned to pay the rent of 6*l.* 13*s.* 4*d.* to the Crown. At the time of the Commonwealth, the Commissioners of the Commonwealth sold the fee farm-rent of Gray's Inn, at the time they sold other fee farm-rents, that had originally belonged to the Crown, to Parry, Chief Butler of Gray's Inn, for the sum of 86*l.* 19*s.* 10*d.*, the monies of the Society. It is described here as an Indenture, dated the 23rd of March, 1650, between the Commissioners of the one part, and this Nicholas Parry, of London, gentleman, of the other part. "The Trustees before nominated, in consideration of the sum 86*l.* 19*s.* 10*d.*, granted, aliened, and confirmed to Parry, his heirs and assigns for ever, 'All that annual pension of Sixe pounds thirteene shillings and fourpence, received of the Masters of the Society of Graies Inne.'"

588. Is that document in the Treasury of Gray's Inn?—No, we have not that. Unfortunately, Gray's Inn paid the money, 86*l.* 19*s.* 10*d.*, and when the Restoration took place, all that had been done by the Commonwealth, with respect to the sale of the fee farm-rent was repudiated; it was done away with; and we find then, that the Crown, having resumed its rights, sold the fee farm-rent of 6*l.* 13*s.* 4*d.* to Sir Philip Mathews. Gray's Inn had to pay a rent of 6*l.* 13*s.* 4*d.* to Sir Philip Mathews, and those claiming through him. Then we find that subsequently, Gray's Inn bought the fee farm-rent.

589. What year was that in?—I have a copy of that Deed. That was in the year 1733.

590. Is the Deed itself in your possession?—I am not aware that it is; the Sub-Treasurer has searched for it, but we are not able to say that it is in our possession. This is a Conveyance to the Treasurer of Gray's Inn, dated the 1st of February, 1733. It was between Elizabeth Streater, one of the three daughters and co-heirs of Henry Streater, and a good many others, of the one part, and Andrew Wither, of Gray's Inn, in the County of Middlesex, Esq., Treasurer of the Honourable Society of Gray's Inn, aforesaid, on the other part; in consideration of the sum of 180*l.* of money of the Society, paid

F. Whitmarsh, Esq., Q.C.

27th June 1854.

to the parties by Wither, for the absolute purchase of the annual rent, pension, or portion of 6*l.* 13*s.* 4*d.*, they conveyed to Wither to hold the said annual rent of 6*l.* 13*s.* 4*d.* with its rights, royalties, privileges and advantages, and all other the premises hereby granted, bargained and sold unto him, Wither, and his heirs, to the use of him, Wither, and his heirs, but in trust, nevertheless, and for the benefit of the said Society of Gray's Inn. So that we have actually become now the holders in fee of it. There is no Trust whatever on the part of the Society of Gray's Inn. It is a purchase on our part. For a long period, the property has been held by the Benchers. I find an enfeoffment of Gray's Inn, by some of the Benchers who were then existing, to others, in the 3rd of James the Second, 1687; and that has been continued on to the present time: "To and for the common profit, benefit, and utility of the said Society of Grey's Inn, and the Members of the same, for the time being, for ever, according to the true, ancient, and laudable government thereof, and to and for none other use, trust, intent, or purpose whatsoever."

591. That is the form of Conveyance from time to time?—That is the form of Conveyance from time to time, and it stands so now.

592. Will you state what the Real property of the Inn consists of?—The Real property of the Society consists of the Inn, which is surrounded by its walls. The manor of Portepole has gone from the Society, we know nothing about it whatever. This property is divided into stacks of Chambers and houses. In the first place, there are nine sets of Bench Chambers; these are Chambers held by the Benchers. Then there are 254 sets of Proprietary Chambers, held by Members of the Society, upon terms of 21 years, renewable every seven years upon payment of fines. There are also 48 sets of Chambers termed House Chambers, that is, in the hands of the House, let, for the most part, to yearly tenants. The total number of Chambers is 311. Then we have seven houses within the Inn, independently of the stacks of Chambers, and four houses without the Inn; total, eleven houses, and those are let upon lease for various terms.

593. By fine or at rackrent?—At rackrent. We have a small piece of ground adjoining, which was part of the original property of Gray's Inn, let upon lease for a term of years. We also derive a trifling rental for permission of entrance to the Inn from premises abutting on the Inn, under deed of covenant.

594. Is that small piece of ground built upon?—No, it is not built upon, it is close adjoining, and it is rented by some people keeping stables; it is close to Warwick Court.

595. Have you a Table of the rentals derived from those respective properties?—Yes.

The same was delivered in. (*See* Appendix, p. 253.)

596. It appears, from the statement you have handed in, that the Bench Chambers are held upon certain conditions for life; what are the conditions upon which they are held?—There are nine sets of Bench Chambers; eight of them are what are called regular Bench Chambers, the other was a gift to the Society, by a person who had been a Barrister, and had been a resident in Gray's Inn, for the purpose of having a resident Bencher in the Inn. That was the condition upon which he gave it to the Society. That is the best set of Chambers we have; it is let at 100*l.* a year I believe.

597. No rent is paid for that; it is occupied by a Bencher, who undertakes to reside?—Yes, sometimes it has been declined, in consequence of the person not being able to reside in it. The other eight sets of Chambers are held upon certain terms of duty, to be done by the Benchers who occupy them. There is a modern resolution, made in 1830, for the purpose of enforcing the attendance of Benchers, of which I will hand in a copy.

The same was read as follows.

"Gray's Inn. At a Pension held 16th June 1830. The House Committee having made a Report, whereby, after reciting in part two several Orders of Pension, dated respectively 1st July 1734, and 10th June 1740, and their opinion thereon, they stated that, considering the importance to the Society that the Benchers should attend to the business of the Inn, and that the original intention of giving the benefit of Bench Chambers to the Senior Benchers, was probably in order to insure their services as often as their health and convenience would permit, they deemed it proper to recommend, that in future, Benchers to whom Chambers are offered, should be required to attend to the duties and business of the Inn oftener than they seemed to be by the present rules. It, is therefore, upon the recommendation of the said Committee, ordered, that from the date of this Order, every Bencher who shall accept a Bench Chamber, shall, in order to entitle him to hold and retain the same, attend at least two Terms in the year; and that such attendance in each Term, shall be by being present and assisting at two Pensions at the least; and that the whole number of days on which he shall dine in the Hall shall not in each year be less than twelve; and that in all future vacancies of Bench Chambers (not including those now actually vacant), no Bencher shall be considered to be entitled to or shall be admitted to a Bench Chamber, who shall not have dined in the Hall and attended at a Pension within eight Terms next before the happening of such vacancy, and who shall not have attended at eight Pensions since he was called to the Bench, exclusively of the year in which he served the office of Treasurer to the Society; and who shall not have served or be actually serving the office of Treasurer. Provided, that if any Bencher, possessed of such a Chamber, shall omit to attend as aforesaid, and to observe the rules and conditions above mentioned, such his Chamber shall be deemed actually void, as if such Bencher was

F. Whitmarsh, Esq., Q.C.

27th June 1854.

dead, and shall vest in the next Bencher in turn entitled to such a Chamber, unless such omission be excused, upon proofs to be made of sickness or otherwise, as shall be allowed of by the Order of Pension."

598. How long has the practice of the Chambers being occupied by Benchers existed?—In the character of Benchers, since 1740. It was the Readers that used to occupy the Chambers before, and that was for a very extended period back. The Readers had Chambers, as a sort of equivalent for instructing Students.

599. Were the same number of Chambers, that are now Bench Chambers, previously occupied by Readers?—I do not think there were eight Readers, but, in fact, every man upon his Call to the Bench undertook to read in his turn. If they did not read, they paid a very heavy fine to the Society; then they had as an equivalent, these Bench Chambers, besides fees that they received, I think, from the Students, for education.

600. Do the Benchers of your Inn pay any fine upon admission to the Bench?—150*l.* When a man was called upon to be a Reader, if he did not read, he paid a heavy fine, amounting to from one to two or three hundred pounds. Then, when the Readings were given over, it became the custom for the Benchers who had Chambers, to pay a fine for not reading; so the 150*l.* was an old established fine, paid for the non-reading, and he had his Chambers notwithstanding.

601. You have given in this Table the amount of fines payable yearly; is that amount taken upon an average?—Upon a seven years' average.

602. It appears that the total income of the Real property belonging to the Inn, is 3,700*l.* a year?—Yes.

603. Have you any Funded property?—We have 3,000*l.* in the 3 per cents.

604. That includes the deposits made by persons on their admission as Students, which are to be returned upon their being called to the Bar?—Yes.

605. The amount of those deposits at present in your hands, is 1,900*l.*?—Yes.

606. It is also stated in this paper, that there is a charge upon the property, for repairs in 1853, remaining unpaid, of 750*l.*?—This is a statement for the last year, 1853, therefore those bills are in the course of payment now.

607. Are the repairs very heavy of the Society's buildings?—Yes, the repairs are heavy; but part of the repairs are done by persons who hold the buildings. We receive for ground-rent, 825*l.*; pensions, 42*l.*; rackrents of House Chambers, houses, &c., 2,100*l.*; fines on renewal and assignments, 803*l.*; amounting to 3,770*l.*

608. What is the income received by the Society, in respect of payments for Students?—We received in 1853, for Admissions 71*l.*; for Calls to the Bar, 47*l.*; for Calls to the Bench, 130*l.*; and for Officers Fees, 59*l.*; for Commons, 1,590*l.*; Preacher's and Reader's Rolls (which I apprehend goes towards the maintenance of the Chapel), 354*l.*; the deposits for the Bar, upon the average 600*l.* Then for the Library Fund, we receive also upon Calls to the Bar, 6*l.* 6*s.*, paid by each Member upon being called to the Bar; that was 60*l.* in 1853.

609. Then your income, derived from those sources, is about 2,000*l.*, exclusive of the deposits?—Yes.

610. With respect to the Proprietary Chambers, held by Members of the Inn, and renewable every seven years, is it a condition of the term that the tenant himself must be a Member of the Inn?—He must be a Member of the Inn; and if there is a transfer of the Chambers, the person to whom they are transferred, must become a Member of the Inn, so that they are all held by Members of the Inn.

611. Is it necessary that he should be a Barrister, or is it sufficient that he should be a Student?—Any Member of the Inn may hold them.

612. He may be either a Bencher or a Barrister, or a Student?—He may be either Bencher, Barrister or Student, or a perfect stranger, but he cannot hold chambers until he has become a Member of the Inn.

613. Which he does, simply by paying an annual contribution?—Yes, there is a certain annual contribution paid, and there is also a fine upon the renewal, and a fine upon the transfer. The lease is renewable every seven, fourteen, or twenty-one years.

614. It appears that the total income of the Society, exclusive of deposits, is about 8,000*l.*?—No. It is about 6,081*l.* besides the Dividends upon the 3,000*l.* Stock, 90*l.* per annum.

615. Have you also prepared a Table of the expenditure?—Yes, I have a detailed statement of the expenditure.

The same was delivered in. (*See* Appendix, p. 253.)

616. Is this statement taken upon an average, or is it the expenditure of last year?—The averages are marked in red ink.

617. The others are taken upon the last year?—Yes.

618. Do the Benchers receive any fees or payments for themselves?—Nothing whatever.

619. The only benefit they have is the occupation of the Chambers?—Yes, for which they pay 150*l.* The average has been taken of the succession of a Bencher to a set of Chambers, and it is found to be about thirteen years, upon the average, before a man succeeds to a set of Chambers.

620. From their limited number?—Yes.

F. Whitmarsh, Esq., Q.C.

27th June 1854.

621. And he pays 150*l.* for that chance?—Yes. I think it would be a bad bargain in the market for a man to pay 150*l.* for the chance. We often have Benchers who have paid the fine, but who have never received any equivalent whatever. We had one, not long ago, who died after being a Bencher about three or four years; my predecessor in the Treasurership, in 1829, died almost immediately he was made a Bencher; so that you pay the fine and get the possibility of receiving a set of Chambers in the course of thirteen years; you run your own life against that. I was asked whether the Treasurer received any emolument; he receives 1*l.* 1*s.* for signing the certificate of every Irish Barrister who has kept his Terms. There were 6*l.* 6*s.* received in the last year.

622. Is there any other payment?—There is no other payment; the only emolument of the Treasurer is extra labour.

623. What are the payments made by the Students for their Commons?—Benchers, Barristers and Students pay alike, except for Preacher's Rolls, at the rate of 1*l.* 8*s.* for fourteen days. The Benchers pay, for Preacher's Rolls, 11*s.* 8*d.*; Barristers, 5*s.* 10*d.*; and Students, 5*s.* per Term.

624. They all pay 1*l.* 8*s.* whether they dine or not, and they are entitled to dine a fortnight for that?—If they keep the Term. If they do not keep the Term, they pay for Absent Commons, and they are charged for a repast, if they choose to come and dine once in the Hall, and they are charged 3*s.* 6*d.* for a repast, and all persons dining in the Hall, have half a pint of wine, which all the Inns of Court give.

625. Can you give us some notion of the difference between the expenditure for Commons and the receipts?—The Inn pays more for the Commons than it receives, by nearly 300*l.* There is no doubt, that the Students in former times, paid a great deal more than they do at the present time, to the Inns for their education; I could show that clearly, by the amounts that were paid in former times, taking periods fifty years distant from one another. The public have an idea that the Inns of Court make a great profit, but that is quite a mistake. I think it is clear, that in former times they paid a greater amount for their Legal education and for their Commons. I can give a statement of it at periods of fifty years. I will go back to the 2nd of Charles the Second, in the year 1650. The whole amount then paid by a person for his admission, for keeping his Terms, and for his Call to the Bar, and all intermediate expenses, was 31*l.* 16*s.* 4*d.* In the year 1700, that is fifty years afterwards, it was 36*l.* 9*s.* 10*d.* In the year 1750, it was 36*l.* 10*s.* 4*d.* In 1800, it was 95*l.* 14*s.* 8*d.*, but then there was a Stamp put on of 50*l.* for a Call to the Bar, and also a Stamp of 25*l.* upon admission; and in the present year, 1854, the whole expense is 133*l.* 4*s.* 10*d.*, that is, including 75*l.* Stamp, paid to the Government; and there is the expense of Legal education, 5*l.* 5*s.*

626. Do not the sums received for Absent Commons, make up the difference between the actual expenditure for Commons and the receipts for Commons?—Any Absent Commons are entered with the rest.

627. Therefore, after deducting the sums received for Absent Commons, there is a loss under the head of "Commons," to the amount you stated?—There is no doubt of it. I think I can show, that comparing the year 1650 with the present time, the Students paid a great deal more at that time than they do at the present, for their Call to the Bar. In the year 1650, in the 2nd of Charles the Second, the whole expense, including admission fees, Commons, and Call to the Bar, paid to the Society, was 31*l.* 16*s.* 4*d.*, and the Student paid for his wine and exceedings, which were paid to the butler; that we have evidence of. Now, taking the year 1545, Henry, in his History of Great Britain, states, that in the year 1545, the expense of living was five times cheaper than at the period when he wrote his History, which was more than fifty-five years ago, (he published his third Edition in 1799). Supposing therefore, that in 1650, the expense of living was only three times cheaper than in 1799, the period at which he published the third edition of his History, then 100*l.* in 1650, would be equal to 300*l.* in 1799, that is, fifty-five years ago; and, multiplying that 31*l.* 16*s.* 4*d.* by three, it would make the expense of being called to the Bar, in current money at the present time, equal to 95*l.* 8*s.* Now, in 1854, the whole expense, including admission fees and Call to the Bar, paid to the Society, (the Students paying nothing for wine or exceedings), amounts to 60*l.* 12*s.* 10*d.*, exclusive of Stamps; deducting that from 95*l.* 8*s.*, the residue would be 34*l.* 15*s.* 2*d.*, as the nominal amount which a Student pays in 1854 more than he did in 1650. But then, looking at the value of money in 1650, the 31*l.* 16*s.* 4*d.* paid by the Student then, would be equal to 95*l.* 8*s.* at the time Henry wrote his History; and, deducting therefore 60*l.* 12*s.* (the amount which the Student pays at present) from 95*l.* 8*s.* (the value in present money of 31*l.* 16*s.* 4*d.* in 1650), it follows that the Student pays 34*l.* 16*s.* less than he did in 1650.

628. In round numbers, you say that though he pays nominally nearly double the amount, yet, considering the relative value of money in 1650 and at the present time, he really pays one-third less now than he did then?—Yes, and therefore my impression, from all I have seen is, that the Student formerly paid an equivalent for his Legal education, independently of his Commons.

629. At that time he had Readers, who instructed him by Lectures?—He had Readers who instructed him, appointed by the Benchers. The Benchers gave the Reader some equivalent for it. A great number of our records were burnt in an unfortunate fire we had, which burnt down a great part of the Inn, many years ago. But I find a memorandum, in the 12th of James the First, which shows that there was a payment to the

F. Whitmarsh, Esq., Q.C.

27th June 1854.

Readers of groats, by the Students and by every gentleman in the House, of 3*s.* 4*d.*; so that every Member in the House paid something towards their Legal education; and the best conclusion I can come to, from looking at the old records and the figures that I have stated to you, is, that they paid an equivalent for their Legal education independently of their Commons. I am convinced in my own mind, that the Students paid a great deal more at that time than they do now.

630. Was Lord Bacon's reading on the Statute of Uses in your Inn?—Yes, and Callis on Sewers.

631. What is the state of the buildings now, and what will be the prospective expense which the Society are likely to incur for the purpose of keeping the Inn in good repair. Are there any buildings in such a state as to require immediate outlays, or a prospective outlay within a short time?—There is the Chapel, with respect to which we have estimated that, in consequence of its dilapitated state, it will take 300*l.* to put it in repair, to make good the walls. The walls are all in a state of decay.

632. What is the state of the buildings generally, in Gray's Inn Square and in South Square? Are they in a state of repair sufficient to stand a long time without any great expenditure upon them?—I should say that the exterior parts of the Chambers are in a decaying state, and the Inn is bound to keep up that. We do the best we can to keep the Chambers in a proper state of repair, because we never permit a renewal of a seven years' term without having it surveyed by a surveyor, and having it certified by him that they are in a proper tenantable state of repair.

633. That applies to the tenant's repairs alone?—Yes.

634. Do you think that the property could be improved in value, by abandoning the system of fines, and letting the leases run out, so as to let them at rackrent?—It might possibly be improved by getting a rackrent, but the demand for Chambers is so small in the Inn comparatively, in consequence of the vast number of houses let in Chambers in that neighbourhood (and the other Inns of Court, I believe, experience the same) that they have great difficulty, at times, to let the Chambers. We have a great many untenanted, at times.

635. Have you turned your attention at all to the subject of Legal education, and would you wish to make any suggestion as to improvements which you think might be effected in the general system of Legal education?—I do not think myself that more can be done by the Societies than is done at the present moment. I think that the Students of the present day ought to consider themselves very fortunate, in comparison with what Students were many years ago; for I remember when I entered as a Student, I went to the Chambers of Mr. Cooke (who was eminent in the Law of Bankruptcy), and he advised me by no means to come to him then, but to go into an Attorney's office for tne purpose of getting a little ground-work in the Law. I did so, and then I found, when I went into his Chambers, that I derived double the advantage that I should have done if I had gone there in the first instance. Now, I think the present mode of education, and the opportunities given to Students, are highly beneficial, if they will take advantage of them. A man must be three years before he can be called to the Bar. Supposing that for his first year he attended the Lectures, and what I think of still more value, the private Classes. I am sure I should have been gratified, when I was a Student, to have had an opportunity of doing it, because it would have laid a foundation for me, and it would have set me upon a course of reading, because the Readers are bound, as part of their duty, to inform the Students, upon their inquiry, what books it is best for them to read, and what course of study generally they should follow. I know there are many young men who scoff at the Lectures; they seem to treat them with contempt. But I am sure myself, that even at my advanced stage of life, I have found advantage in attending them, for it has brought to my recollection things which I had known before, but which had gone from me in course of time. And I think myself, that if young men would take advantage in the first year of the opportunity of attending the Lectures, and attending the private Classes (which is the more important of the two), it would be the means of enabling them, in the second year of their studentship, to go into a Pleader's, or an Equity Draughtsman's office, or a Conveyancer's, with much greater advantage than they could do if they came up raw (if I may use that term) without any knowledge whatever of the Law, and coming directly from the University, or public school, into the Chambers of a Conveyancer, &c., for they would have to learn the very terms of Law. It is like beginning the Grammar. But if they had a twelmonth's probation by attending the Lectures and the private Classes before they went into the Chambers of the Pleader, then they would go there with a great deal more advantage. I have often reflected upon it, and I think it would have been a most gratifying and beneficial thing to me, if I had had the advantage of it.

636. Have you formed any opinion upon the subject of compulsory examination, as to whether it would be desirable to subject young men to such an Examination upon the course of education they have gone through, before they are called to the Bar?—My opinion is against that. I do not think compulsory Examination would be of any particular service; and in the case of gentlemen coming to the Bar for the purpose of holding a Commission of the Peace, living in the country, and not intending to follow the Law as a profession, it would be extremely irksome to them. And, with respect to men who mean to follow the practice of the Law entirely as the means of livelihood, if they hope to succeed, they must, of course, be industrious; and I do not think a compulsory Exami-

F. Whitmarsh, Esq., Q.C.

27th June 1854.

nation would have much influence in inducing them to get forward in their studies. I do not think it would stimulate them much. Besides, I think that mischief might be done to men of retired minds, by not passing an Examination well. They might get altogether discouraged from pursuing a profession to which they might fancy themselves unequal; and, in fact, put upon the shelf completely; when, although from their retiring habits and from their modesty altogether, they could not be active men in Court, yet they would make admirable Chamber Counsel, as Conveyancers, Special Pleaders, and otherwise.

637. Do you conceive that in attending Lectures, as they now do compulsorily, there is any inducement to those who are otherwise inclined, to derive benefit from the Lectures, if they are aware that they will not be examined upon the subject?—I think that a man's being compelled to attend Lectures is a very great benefit to him.

638. Whether he is to be examined or not?—Whether he is to be examined or not; because it keeps him here studying, when perhaps he might be flying off into the country, and merely dining in the Hall. He might otherwise merely keep his Commons, and eat his way to the Bar. But here, he is put in the way of study, and if he chooses to take advantage of it, he has the opportunity. I think compulsory attendance on Lectures is both very necessary and instructive. I will instance more particularly the utility of (as I have attended to it most) the Conveyancing Lectureship. I have observed that the men, generally, are extremely attentive. You see rows of men, many of them industriously taking notes. I am confident that the Lectures do them a great deal of good, as it induces them to research and study.

639. You are a Member of the Council of Legal Education?—I am.

640. Have you not observed that at each successive Examination, the general information of the Students examined has been found to improve?—Very much. They are, if I may use the term, a higher educated class of Students; many of them come from the Universities, and some of them have been attending the private Classes, and attending also, the Lectures, perhaps, more attentively than the others.

641. Has not it happened in several cases, that the second men of one year have shown more marked proficiency than the first men of the preceding year?—Yes.

642. And the converse has never occurred?—Never, I believe.

643. Would not that circumstance induce you to think that the Examinations are in some respects beneficial?—I think that Examinations are beneficial, as a stimulus to men to get Honours. Instead of making it compulsory upon them, I would induce them to pass through Examinations by the prospect of getting Honours.

644. Do you think that it would add to the general utility of the Lectures, if every Student attending them, passed at least a general and moderate Examination upon the subjects of the Lecture as a condition of his Call to the Bar?—It might be so; but I am not prepared to say to what extent it would be desirable.

645. Before the Council of Legal Education was established, Gray's Inn had done a great deal in the way of Legal education?—We had.

646. They had established a Lectureship on Real Property and Conveyancing?—Yes.

647. Those Lectures were very successful?—Very successful. I think we had from seventy to eighty generally attending them, from all the Inns of Court.

648. How long before the establishment of the Council of Legal Education had that system been pursued at Gray's Inn?—It commenced in 1847. Mr. Lewis was elected Lecturer in 1847, and we continued him on up to the period of the constitution of the Council. And he was very effective with his Lectures indeed, and great attention was paid to them.

649. Did you find that of the number who attended his Lectures, the majority were Students studying for the Bar, or persons intended for the other branch of the Profession?—I had no opportunity of knowing that.

650. Did he examine them at all upon the subject of his Lectures?—Yes, and he gave a prize himself annually, Vesey Junior's Reports.

651. That was a voluntary Examination on the part of the Students?—It was. Perhaps seven or eight men would start for the prize, and a Certificate of Honour was given to several others in rotation, according to merit.

652. He also established, what are called "Moots," that is to say, discussions on points of Law?—Yes. He would give them a question to discuss; it was upon the plan of the old Mootings in the Hall; and the young men used to like it very much. They would come and enrol their names as desirous of Mooting, and he would give a subject to them, and he would appoint one or more to take the Plaintiff's part, and others to take the Defendant's part.

653. The Irish Students are not obliged to attend the Lectures?—They are not obliged, but they can if they think it expedient, by paying five guineas. There are five guineas paid for the attendance upon the Lectures; and if they choose to enter themselves for it, they are perfectly at liberty to do so, or to attend the private Classes.

654. Do you think it is worth their while to remain in London for the purpose of attendance upon those Lectures?—I do think it is, if they mean seriously to follow the Law. I think that to keep up a succession of attendances is a small matter for a man who desires to attain knowledge in any science whatever.

655. Could not they obtain the instruction in Ireland?—Undoubtedly.

656. Do you think there is any advantage in their coming over to London to attend here?—I do think there is. One great advantage of it, I think, is, that our friends in

F. Whitmarsh, Esq., Q.C.

27th June 1854.

Ireland and ourselves are brought into communication with each other. It is a great object that the two nations should associate so as to become, if possible, one.

657. In point of fact, do the Students who come over from Ireland remain here?—I believe not. I rather think they run away as fast as possible.

The witness withdrew.

Mr. D. Boswood.

MR. DANIEL BOSWOOD, examined.

658. You are the Under-Steward of Gray's Inn?—I am.

659. You have prepared the Tables which have been handed in by Mr. Whitmarsh. Can you state that they are accurate?—Yes.

660. You are here at the request of the Benchers, to give any information that the Commissioners might think fit to require?—Yes, I am.

The same were delivered in.

The witness withdrew.

Timothy Tyrrell, Esq.

TIMOTHY TYRRELL, Esq., examined.

661. You are a Member of Lyon's Inn?—Yes.

662. What is the constitution of Lyon's Inn?—I believe we are considered as being Ancients, but whether Members or Ancients, I believe the terms are almost synonymous. I believe we have not for many years had anything but Members or Ancients.

663. Do you meet in any Hall?—Not at all.

664. What are you functions?—We appear to have none. It appears to be a private company.

665. How do you know who is a Member or an Ancient?—We have documents by which the property passes. Before the property is conveyed, we constitute the individual a Member.

666. Who assumes to deal with the property?—Those individuals who are Ancients. In fact, there are only two of us left now.

667. How did you become an Ancient?—I was admitted to Chambers on the same day that I was constituted a Member, and having purchased Chambers, I hold them still; I hold them for life, and a nomination, which in fact means the power of selling.

668. You wished to have Chambers in Lyon's Inn?—Yes, my father was there before me, and my brother also.

669. And you proceeded to some person to purchase them?—Yes, who were present. I was then entered as a Member, and admitted to the Chambers, and paid my predecessor the purchase money.

670. Were you entered in a book?—Yes.

671. Who keeps the book?—It is in my office.

672. Are you now the Ancient who has the custody of the book?—There are two of us, who have the books of the Inn.

673. And all the Deeds and Muniments?—Yes. The greater part of the property seems to have been purchased, and to have undergone a change in the mode of conveyance from lease and re-lease, into admissions for a life and a nomination.

674. To whom are the fines paid?—There are no fines, the money goes to the person who sells.

675. Is there no payment to any office?—Not any; the only payment that we make is 7*l.* 13*s* 4*d.* to the Inner Temple for a Reader, but since 1832, there has not been any Reader. This year we had an application, to know if we wanted a Reader; they sent three names to us to select from, but I never remember a Reader there. I think there was a Reader there in 1815. I think I was at home from school, and attended with my father once; that is the only one I can recollect to have heard of.

676. Is there a Hall?—Yes.

677. Is the Hall ever opened?—It is only opened for the purpose of Societies to discuss there, for Debating Societies.

678. Who deals with the common property, the Hall, for instance?—The Ancients let it by means of their Steward, and they receive the rent for it.

679. The Ancients have a Steward?—Yes, and a Collector.

680. What has he to collect?—He merely collects our rents.

681. How are the rents dealt with?—They are private property, except the 7*l.* 13*s.* 4*d.* a year. We do not know upon what part of the Inn that is charged. We have Deeds, which are not very ancient.

682. When you took your Chambers, did you take them from somebody who was the previous owner of the Chambers?—Yes.

683. Did you covenant to pay rent for them?—No, there is no rent paid to anybody.

684. What are the rents which the Steward collects?—The rents of my property, and of that of the other Members; for instance, I have Chambers which are let for 100*l.* a

year, and he collects the rent. All the Chambers throughout the Inn belong to private individuals, and the Steward receives the rent.

685. Is every person who has private Chambers *ipso facto* an Ancient?—No, I imagine that originally there were Members independently of the Ancients. There are only two of us left now.

686. Two Members or two Ancients?—Two Members who are the two Ancients.

687. And you hold all the property of the Inn between you?—It is held between us. It has been purchased by degrees, and it is now held by us two.

688. But there is a trace once of there having been at one time some public function discharged at the Hall by Readers?—There have been Readers; Mr. Cooke was our Reader upon some occasion. It is a matter of record, I believe, in one of the London histories, and I remember to have seen a Reader once as a boy.

689. Do you recollect who attended him?—Only the Ancients.

690. Not any Pupils or Students?—Not any.

691. Have you any recollection of dinners of your own Body in the Hall?—No, but I have heard of dinners of the Ancients in the Hall; I think that must have been as much as a hundred years ago.

692. Was there a kitchen attached to the Hall?—There was a kitchen.

693. You pay a rent of 7*l.* 13*s.* 4*d.* to the Inner Temple?—Yes, which seems to yield us a Reader, if we select one.

694. You do not conceive yourselves bound to admit a Reader, unless you wish it?—I believe the real reason why it was omitted was, that we had a Reader once, I have heard my father say, who burlesqued the thing so greatly, that they were greatly disgusted, and never asked for another Reader.

695. Are you aware of any Trusts attached to the Society?—Not any; I do not know even the origin of the payment of the 7*l.* 13*s.* 4*d.*; of course, if the Commissioners wish to have any information with respect to the Inn, I shall be happy to afford it as far as lies in my power; but I believe that it is one of those Inns, such as Serjeant's Inn, in Fleet Street, and I believe Serjeant's Inn, Chancery Lane, which are nothing but private property.

696. You have never had any Public Library?—No.

697. Is there any common edifice but the Hall?—Not any.

698. What is the greatest number of Ancients that you remember at any time?—I think I remember five.

699. At the time when you remember the existence of that number of Ancients, were they all connected with the profession of the Law?—Yes; I do not think I recollect any individual who was not a Member of the Law, but my impression is, that anybody might be a Member, without reference to his belonging to the Law.

700. Is the other Ancient besides yourself, a Solicitor also?—Yes.

701. How long is it that your number has been reduced to two?—I think upon the death of my brother; he was one. I think from twelve to thirteen years.

702. Your father possessed a good deal of the property?—Yes. My father held a great part of it before he died. My father laid out a great deal of money upon the property, and I believe he added a great deal to it.

703. The repairs, of course, are done by the proprietors?—Yes.

704. Except the 7*l.* 13*s.* 4*d.* paid to the Temple, you know of no payment for any Legal Pursuit, or anything connected with the Law?—No; it was the impression of my father that the Inn, as an Inn, was nothing but private property; so that it was a matter of consideration whether we should not even drop the mere form of admission. I hardly know how the form of admission has arisen. We have nothing but the mere admission upon the books of the Company; we have records of a great deal of it being private property, because we have Deeds and papers of no great antiquity.

705. You have never seen any record of any original Grant?—No.

706. Does not the payment of the 7*l.* 13*s.* 4*d.* to the Temple seems to raise the inference that it came from the Temple originally?—I should imagine that, like many other institutions of a similar character, the person who first established something in the shape of a House, contributed to the Inner Temple with the view of getting some teaching for those who were in the habit of resorting there; because I imagine that the word "Inn" meant merely a place of resort.

707. Like the Halls or Hostels in some of the Universities?—Yes.

708. Was not the practice, with reference to the Readership, that the Inner Temple sent three names, out of which the Ancients selected one as the Reader?—Yes.

709. When was the last time you recollect that to have been done?—When I was quite a boy. I think in 1815.

710. Does anything occur to you which you would like to suggest with reference to the advancement of Legal education?—I think it might be improved a good deal. I think that if instead of having Attorneys, at their entrance, regarded as Articled Clerks, they underwent one or two years' probation before they became Articled Clerks and were obliged to pass certain Examinations, you would have a much better class of Articled Clerks.

711. You mean an Examination in general knowledge?—Yes; before they are Articled. I am satisfied that it is a very bad course of discipline now. A boy is taken raw from school, without its being at all known what taste he may have with reference to study

Timothy Tyrrell, Esq.

27th June 1854.

I must admit that the study is very uninviting at the first beginning, particularly if a boy is young from school. I cannot help thinking, that before he is entered as a regular Articled Clerk, it would be desirable that he should be entered as a noviciate in some way in an office, and he should then undergo an Examination in certain subjects. I think that he cannot be too well skilled in Classical knowledge, for I believe that would be the best foundation for any man to study Law upon; and I think, that if after being two years in an Attorney's office, he can pass certain Examinations, he might be less than the additional three years in an Attorney's office. Then I think, with all due respect to those who make the Examinations at present, that they are very injudicious. It sometimes happens that a well qualified man goes up, and he is plucked at the first Examination, and at the second he passes. I have been looking over the questions myself, and I have been surprised to see questions so exceedingly difficult to young men entering the Profession; and I am sure that half the Attorneys in practice could not answer them.

712. You would suggest having a preliminary Examination, before admission?—Yes; I think even before they are apprenticed. It is a very serious question, particularly in the case of women left with children to bring up. They fancy that they have an opportunity of starting a boy in the Profession, and they have to pay the whole expense of his education, and of starting him, and the Stamp duty, and perhaps after all, the boy remains encumbering an office, and doing little or no good.

713. You have, at the Law Institution, a regular course of Examination before parties can be admitted?—Yes; but then it comes too late. I think it would be a great improvement if they were to be examined before they are articled.

714. There are also Courses of Lectures delivered at the Law Institution?—Yes.

715. Is attendance upon those Lectures compulsory?—No; the attendance upon Lectures is voluntary.

716. Is not the attendance generally very good?—They tell me that the Lectures are very well got up, and attract a good number of Students; but I am inclined to fancy that they might be much more effective as Lectures, if there were periodical Examinations upon them. I do not understand the value of Lectures unattended with periodical Examinations.

717. The Lectures are not compulsory, but the Examination is compulsory?—Yes.

718. You would wish to have them examined monthly, or quarterly, upon the subjects of the Lectures?—Yes. If you look at the College Examinations, you see how much they stimulate men. The College Examinations are generally as much a matter of anxiety every year as the University Examinations. I think we have a great number of men in my branch of the Profession who have been introduced there without any previous knowledge, or capacity, or inclination; and it certainly is one of those professions which do require inclination; and if there could be one or two years' Examinations or trial of the Student before he is bound, I think it would be very useful. I think now, he is often kept there merely because the money has all been spent upon his first introduction.

719. Would you think it desirable that that preliminary Legal education should be given in an Inn of Court?—I think the more you associate the Body generally, the more effect it will produce upon those who are coming in.

The witness withdrew.

S. B. Jackson, Esq.

SAMUEL BROWN JACKSON, Esq., examined.

720. Do you belong to the profession of the Law?—I am an Attorney and Solicitor.

721. You are of New Inn?—Yes.

722. Where is New Inn?—It runs from Wych Street towards Clement's Inn.

723. Not far from Lyon's Inn?—No; the backs of some of their Chambers look into a part of our Inn.

724. Can you give us any account of the constitution of New Inn?—I will give the best account I can. Our constitution consists of four Tables. The "Head Table," as it is called, consists of the Treasurer and Ancients. They are all Ancients, and out of the Ancients a Treasurer is elected in Michaelmas Term every year, entering on office in Easter Term following. He is usually elected for a second year, and sometimes a third. The next table is called the "Round Table." There is a third table called the "First Mess," and there is another table called the "Long Table." The first three tables, properly, should consist of twelve Members each; they are not so filled up now, they are not all filled up; but the constitution, I believe, is, that each of those tables should consist of twelve Members. The "Long Table" is indefinite as to number.

725. What is it that entitles a person to sit even at the "Long Table?"—Becoming a Member of the Society.

726. What is the ceremony of becoming a Member of the Society?—Entering into bond. The usual course of becoming a Member is taking Chambers in the Inn.

727. You must be a Member to hold Chambers in the Inn?—You must be a Member to hold Chambers. You may rent Chambers, without being a Member.

728. But to become a proprietor of Chambers, you must be a Member of the Inn?—Yes; and properly, I believe, even to rent Chambers, you should be a Member of the Inn.

S. B. Jackson, Esq.

27th June 1854.

729. What is the ceremony of admission?—It is an admission entered in a book. I believe the ceremony is principally for the purpose of paying a duty to the Government.

730. What is the payment required when a person wishes to become a Member of the Inn?—The form of admission is, upon a Stamp of 3*l.* In addition to that, the form of Membership consists in entering into a bond to the Society.

731. Is there a fee paid to the Society upon the occasion?—Not to the Society; but to the Steward there is a fee of five guineas paid, of which 3*l.* 5*s.* is for stamps. The remainder is for Fees to the Steward and the two Senior Porters.

732. Who appoints or elects the Steward?—The Ancients.

733. Has he any other emoluments besides fees?—Yes, he receives the rents. He has a fixed salary for receiving the rents and attending to the general business.

734. In whom is the property of the Inn vested?—It is vested in Trustees, being Ancients.

735. Do you hold originally under the Crown?—No, we hold under the Middle Temple, under a long lease.

736. What is the date of the lease?—25th October, 1745.

737. What is the term?—It is 300 years, from Midsummer, 1744.

738. Upon the payment of a rent?—Yes, 4*l.* a year.

739. Is that a simple lease, unaccompanied by any conditions or Trusts of any kind?—There are some conditions and Trusts in it; one is, that we shall allow the Middle Temple to exercise Readings in our Hall.

740. Are those Readings carried on up to the present time?—They are not carried on now.

741. When did they cease?—I think in 1846.

742. Did they cease in consequence of the Inn declining to receive a Reader, or in consequence of the Middle Temple not sending a Reader?—I believe it was in consequence of the Middle Temple not sending a Reader.

743. What was the ceremony of appointing a Reader? Did they send names to you that you might choose one out of them?—They sent names to us.

744. How many?—I think five or six, but I cannot speak distinctly to that.

745. And the Ancients selected one?—The Ancients selected one, or they struck out certain names. I think the Temple struck out also. The Temple usually intimated to us, I believe, the gentlemen they wished to send; and, as a matter of courtesy, I believe we struck out the other names.

746. What Course of Lectures did he read?—Common Law principally, Criminal Law sometimes.

747. How many Lectures did he usually deliver?—I think about five or six in the course of a year.

748. Were they distributed through the various Terms, or through one Term?—Distributed through the Terms.

749. Did he receive anything from New Inn for that?—I believe not.

750. Is the Deed you have just named, the earliest Deed that you possessed, viz., the lease from the Middle Temple?—I think so.

751. Are there any Deeds in the Treasury?—There may be some anterior to that. Prior to that, I believe the Society claimed to be entitled to the fee of the premises. There was a dispute about it, and it ended in a compromise, by taking a lease for 300 years.

752. Do you know anything of the character of the Society before it got that lease?—No; I do not.

753. Have you ever searched for any ancient documents, which would throw light upon the constitution of the Society?—No, I have not.

754. In whose custody are the documents belonging to the Society?—They are supposed to be in the custody of the Treasurer, but they are kept in the Hall, in a large chest, and I believe the Steward has the key of it.

755. And you have not made any search, with the view of ascertaining what the original constitution of the Society was?—No.

756. Would it be easy to make that search?—It could be done.

757. Would you have any objection to do so?—I do not know individually that I have; but I am only one of the Body, and I should wish to take the opinion of my brother Ancients upon that subject.

758. Is there any provision in your Society for Legal education of any kind?—No, there is not; only this, that many of our Members are also Members of the Law Institution. But that is quite independent of the Inn.

759. The Society of New Inn has no provision for Legal education of any kind?—No.

760. What is the means to be used for becoming a Member of your Inn?—Entering into a bond.

761. Is there any recommendation or qualification required?—We generally confine them to Members of the Law, either Attorneys or Solicitors, or Barristers. It is a locality that Barristers do not much come to, and it consists chiefly of Attorneys and Solicitors. In a few solitary instances, we let the Chambers to private gentlemen; but with the exception of three or four sets of Chambers, they are almost all practising Attorneys or Solicitors.

S. B. Jackson, Esq.

27th June 1854.

762. Is there any Rule of the Society, confining it to Attorneys, or Solicitors, or practitioners of the Law?—I believe there is; but we have found it necessary to deviate from that. It is a locality that has deteriorated considerably, and we have, in a few solitary instances, deviated from it, and admitted persons who are not Members of the Profession.

763. What are the sources of income, besides the buildings of the Inn?—There are no other sources of income, but the rents of Chambers, and of some houses adjacent.

764. Have you any objection to state what the amount is?—No; the rent is something like between 1,800*l.* and 1,900*l.* year.

765. Do you provide Commons for the Members?—Yes.

766. Are those Commons paid for by the persons partaking of them?—No. The Society bears the whole expense out of their funds.

767. Is it a loss to the Society, supplying those Commons. Do they supply the Commons at a lower rate than they charge for them; or is it a source of profit?—In so far as the Society bears the expense, it is a loss to them.

768. Does not the Member pay a sum equivalent for that advantage?—No. He pays nothing.

769. Do they pay by the Term, or by the repast?—They did pay by the Term, but, as before stated, they now pay nothing.

770. What is the charge to the Members for the Term?—There is no charge.

771. Is the fare the same at every table; or does it vary according to the rank of the persons who sit there?—The Ancient's table is a little better, but very much the same.

772. Is there any difference between the other tables?—No; though there are four tables, nominally, there are in fact, only two tables; there is the Ancient's table, and there is the Round Table where they dine. Many years ago, the First Mess consisted of a considerable number of Members; but either from promotion, or withdrawing, or one thing or another, they have been greatly diminished, and the Round Table and the First Mess dine together, at the same table. They dine at the same table as a matter of courtesy. And now, we have not any more than two separate tables, the Ancient's Table and the Round Table. The two junior Tables join together.

773. You only dine during Term?—Only during Term. The Ancients dine after Term, occasionally, on Pension days.

774. Pension days are the days on which you do the business of the Society?—Yes.

775. Does a Member pay anything else towards the funds of the Society, except the entrance fees?—Five guineas, but not to the funds of the Society When he is called up to be an Ancient, he has to buy a set of Chambers for his life, and those he pays for.

776. Are the Chambers held in fee; or are they held for life?—We grant them for life. It is only a life interest.

777. Do you reserve a rent?—Yes, a nominal rent; 1*l.* a year, ground rent.

778. Of whom does the purchaser buy?—Of the Society.

779. Is there any fund accumulated from those purchases?—Not now. A few years ago, we had a little fund in the Funds; but that has been completely exhausted. We have had very heavy expenses in repairs and rebuildings, and our fund is unfortunately gone.

780. Then at present your only source of income is the rents of the Chambers and of the houses?—Yes.

781. You have no accumulated fund which yields any interest?—No.

782. You have no source of profit, either for fees or from Commons, or from any other source?—No.

783. Then the income of the Society is absorbed in providing Commons and in the repairs and other outgoings necessary for the maintenance of the buildings?—Yes, Servants' wages, Insurance, Taxes, and a variety of things. It so happens, that just now, we are paying a considerable sum for interest, for we have made such repairs and alterations in our Inn, that we have been obliged to take up money at interest.

784. Do you think that when you have consulted your brethren, you can furnish the Commissioners with some information relative to the original constitution of the Inn; and as to how far its constitution has been varied; and whether the functions of the offices have remained the same?—I doubt whether I shall be able to find anything upon those subjects.

785. Have the Ancients any particular duties to perform?—Only the duties of Trustees in the direction of the affairs of the Society.

786. Have they any other emoluments or advantages besides those to which you have referred?—They have no emoluments whatever. They have this advantage, that when they are called up to be Ancients, instead of paying for their dinners, their dinners are exclusively paid out of the funds of the Society, while the junior Members contribute.

787. That is to say there are no "Exceedings" for the Ancients?—No, nor for the other Members.

The witness withdrew.

Adjourned to Friday next, at 4 o'clock.

Friday, 30*th June* 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

Mr. THOMAS GREGORY, examined.

Mr. T. Gregory.

30th June 1854.

788. You are Steward of Clement's Inn?—I am.

789. Can you inform the Commission of the constitution of that Inn?—It consists of a Principal and an unlimited number of Ancients; that is to say, they are at liberty, when they require any more Ancients, to call them up from the Lower Table. There are two tables—the Upper Table and the Lower Table. The usual number at the Upper Table is nine, with the Principal; but if they require any more, they call them up from the Lower Table.

790. Of whom does the Lower Table consist?—Solicitors. Commoners they are called.

791. It is Principal, Ancient, and Commoners?—Yes.

792. Are the Commoners limited in number?—No, there are very few Commoners: there are only six now, they have fallen off so much.

793. In what mode are they admitted?—By a bond; a Member's admission bond.

794. What is the qualification?—He must be a Solicitor.

795. If a gentleman, being a Solicitor, wishes to become a Commoner, what does he do?—He merely calls and acquaints me with it, and brings a surety with his bond, and the bond is signed.

796. An applicant or a surety?—An applicant.

797. What are the privileges of a Commoner?—He has the privilege of dining at the Hall, paying for his dinner, of course. Dinner is provided for the Ancients out of the funds of the Inn, but a Commoner has only the privilege of dining in the Hall.

798. He may be elected an Ancient?—Yes.

799. When a Commoner becomes an Ancient, what are the privileges of which he then becomes possessed?—I can hardly tell. There is a dinner, and the trouble of managing the business of the Inn, and attending the meetings.

800. The Inn possesses property, does not it?—None but the Chambers.

801. They possess Chambers?—Yes.

802. All the Inn belongs to the Body, called the Inn, as a Society?—Yes.

803. You are not an Incorporated Body?—No.

804. What is your title?—The fee simple is in Trustees. Several of the Judges and Vice-Chancellors are Trustees. The Master of the Rolls, Vice-Chancellor Kindersley, and Lord Justice Turner, are Trustees.

805. There are certain Trustees in whom the property of the Inn is vested?—There are twelve Trustees.

806. What is the proper designation of your Society?—The Honourable Society of Clement's Inn.

807. It is not called the Principal, and the Ancients and Commons?—No.

808. The Inn possesses the property of the Chambers and the Hall?—Yes.

809. In fee simple?—A fee simple in the Trustees. They hold it in Trust for the Principal and Ancients for the time being.

810. There is no purpose declared?—No.

811. What is the course with which you deal with that property; how are the Chambers disposed of, and who receives the rents?—I receive the rents and pass the accounts, and the accounts are audited once a year, by two of the Ancients and two of the Commoners.

812. Who has the letting of the property?—I have.

813. It is not done by a Committee of the Ancients?—No.

814. Do you let at a rackrent or a fine?—The rackrent; what we can get. The Chambers let very low now. The fact is, there are so many other better Chambers, that we cannot get Solicitors to come and live there.

815. You do not confine it to Solicitors, do you?—No, I think there are only five Solicitors of the Inn practising there.

816. Have the Members of the Inn any special privilege with reference to the Chambers?—No.

817. Do they pay the same as anybody else?—Yes. Before a man can be an Ancient, he has to qualify, by buying a set of Chambers for his life, according to the Temple Table. Before a man can go up to the Upper Table, he has to buy a set of Chambers. If they call anybody from the Lower Table, and he is not qualified or refuses to qualify, they pass by him.

818. An Ancient buys it for his life; does he acquire the privilege of reselling it?—He can do so by permission, by licence indorsed on the lease.

819. May that be obtained almost as a matter of course?—Yes, if a man is a respectable man, if there is nothing objectionable in his character, they never object.

820. He buys it by paying down a sum of money to the Steward?—Yes, that is paid into the general fund.

Mr. T. Gregory.

30th June 1854.

821. When he sells it, does he sell it for his own life only, or for the life of the purchaser?—Only his own life.

822. What is about the amount of the income of the Society?—The income of the Society, without the rent of the Chambers, is 1,500*l.* a year.

823. What do the payments by the Ancients amount to upon an average yearly?—There are nine at present; and I should think, if you averaged them at 25*l.* a year, that would be as much as it is.

824. What is the fine paid down for a set of Chambers usually?—It is according to the age of a person, according to the Table that he has in the Temple.

825. What do you do with your funds?—They are spent in repairing the Inn, keeping up the buildings; the buildings are very old. Eight or ten years ago, one large building was condemned; it cost the Inn 4,000*l.* to rebuild it; they were obliged to borrow money, and they have not paid it off yet.

826. Has there been any surplus in your time?—No. Another building requires coming down at this present time.

827. Are there any records of the Inn which show its creation?—I have only been Steward ten years, and I have not had occasion to refer often to the papers, but I have seen back as far as 1677, and at that time there was a Conveyance by Lord Clare to a person of the name of Killett; then, soon after that, a Chancery suit took place between Killett and the Principal and Ancients of Clements Inn, and under the Decree, part of the property (that was the part that Killett bought of Lord Clare) was conveyed to the Principal and Ancients; that is where we commence our claim from.

828. Have your documents been burnt?—Yes; and some of them we cannot read.

829. Is the name of Clement from Saint Clement?—Yes; it was, I believe, a monastery formerly.

830. Were you ever in connexion in any way with any of the Inns of Court?—With the Inner Temple, but I never could find out any paper relating to the connexion, except that a Reader comes once a Term, but that was dropped for twenty years, I think till about two or three years ago, and then we applied to them ourselves, and they knew nothing at all about it; the Under Treasurer said that he did not know anything about the Reader, and had forgotten all about it.

831. Did you succeed in persuading them to send you a Reader?—Yes; they sent us three names as usual, and we chose one; but then they said that the gentleman was out of town, or away, and there was not time to appoint another.

832. The old custom was to select three?—They send us three names, and we generally take the first; we can take which we like.

833. It has been the custom to have three names sent to you by the Temple, and you select one?—Yes.

834. Do you make any payment to the Reader?—None at all; on the contrary, he pays something I think to our Porters.

835. What does he read?—He explains some new Act of Parliament very often, or any alteration in the Law that has taken place.

836. What audience has he?—Only the Principal, Ancients, and Commoners.

837. No Students come to the Court?—No.

838. Do only the Members of the Inn attend, or do you allow strangers?—Only the Members.

839. There has been a Reading under the new system, has there not?—Last year there was one, and this year they were to read.

840. Is it tolerably well attended?—Yes; at least they are always there, the few Members that there are; but they are so few, there are only six.

841. They all attended?—Yes.

842. And they wished to have it?—Yes; the Principal and Ancients applied.

843. Have you any traces at all of what has been done with any surplus of your funds?—I do not think there ever was any surplus. On looking back 100 years ago, I find that they were borrowing money always; in a minute of the Pension Books you will see that the Ancients lent money sometimes in order to pay certain things.

844. You hold Meetings called Pensions?—Yes.

845. Are they periodical Meetings?—Whenever anything is required, I call a Meeting; when there is any particular business to be transacted.

846. That is attended by the Principal and Ancients only?—Yes; the Rates and Taxes, and the Porters, come to 300*l.* a-year.

847. Do you watch the Inn?—Yes; there used to be two day Porters, and two night Porters; then, after the Society lessened the expenses, they had three instead of four, and they dine only one day now, instead of six days.

848. Are the dinners in Term only?—Yes.

849. One day in each Term?—One day in each Term. They have had to lay out some money in improving the Inn, in the last two or three years; and, therefore, to be economical, they only dine one day.

850. Have you a Kitchen?—Yes.

851. Do you keep a regular Cook?—No; we pay a Cook so much a Term. At present the Head Porter's wife cooks; they pay her 8*s.* 6*d.* a dinner.

Mr. T. Gregory.

30th June 1854.

852. Do the Ancients themselves pay it, or is it paid out of the funds of the Society?—It is paid out of the funds of the Society.

853. And the wine in the same way?—Yes.

854. Are those who attend as Commoners allowed to have wine?—There used to be six days, and the last day was called a Grand day; on that day we were allowed half a pint of wine each; and there is a sum called "Commons carried to account," (I never knew what it meant exactly), "5*s*."

855. By whom is it paid?—It is paid out of the funds of the Inn.

856. Towards the dinner?—Yes.

857. Do you think the property of the Inn is susceptible of improvement, so as to produce an available income?—I am afraid not; I have been there ten years, and my father was Steward for thirty years before, and it was always the same in his time. We find the buildings are so old, that they are always wanting something done to them; they want them painted so often, and the rents are so low, that we get nothing from them.

858. Who is your Principal?—Mr. Chapman, of Richmond, at present. We analyze all the payments, so that in one sheet it is seen what everything costs.

859. Have you any Library?—No.

860. Have you any Chapel?—No; we have three pews belonging to the Inn, in St. Clement Danes church; and a Vault, where any of the Principals and Ancients may be buried, if they wish it.

861. Do you pay anything to the Inner Temple?—Nothing.

862. Have you ever had a Chaplain?—No.

863. You do not pay any Lecturer at the Church?—We pay ten guineas a year to the Rector.

864. Is that an Easter offering?—Yes. We pay no pew-rent, or anything of that sort.

865. What class of persons at present occupy the Chambers who are not Attorneys?—They are men holding Public Situations; one in the Tithe Office perhaps, others in banks.

866. Are there any Students for the Bar?—No; they would consider it derogatory to live in our Inn; no Counsel reside there.

A. S. Thorndike, Esq.

ANDREW SNAPE THORNDIKE, Esq. examined.

867. Of which Inn are you the Principal?—Of Staple Inn.

868. Will you inform the Commissioners of the constitution of your Inn?—We call ourselves the Principal, Ancients, and Juniors of the Honourable Society of Staple Inn.

869. You are not an Incorporated Body?—Certainly not.

870. How many Ancients are there at the present time?—Eight.

871. Is it a limited number?—I think the number is twelve, including the Principal. I have been informed to-day that it is thirteen—the Principal and twelve Ancients.

872. What is the actual number of Juniors?—About twelve, but the number is unlimited.

873. What is the course that any person takes who wishes to become a Junior of your Society?—He must first be a tenant of the Inn, that gives him a *locus standi* to put up his name in the Hall as a Member; becoming a tenant does not at all indicate that he will be a Member.

874. Must he be an Attorney?—No.

875. Any respectable person may become a tenant?—Yes.

876. Any person who is a tenant may become a Junior, whether he is an Attorney or not?—If he be a tenant, he may make an application.

877. There is no qualification except being a tenant?—No.

878. He applies to some Officer?—He applies to the Pensioner—Pensioner is another word for Treasurer. He has the general management of the Inn under the Principal.

879. Is the Pensioner an Ancient himself?—Yes.

880. What step is taken by the Pensioner on such an application?—He puts the applicant's name up in the Hall, and the name of the person by whom he is proposed. He is proposed by one of the Ancients or one of the Juniors, the name is put up in the Hall, and there it remains for inquiries to be made as to his respectability, or whether we should like him to be a Member.

881. Must he be moved and seconded, or is one name sufficient?—No, two names are required.

882. If admitted, what privileges does he become entitled to?—He becomes entitled to the privilege of keeping his Commons.

883. He dines in the Hall?—Yes.

884. Does he pay for that dinner?—Yes; he does not pay us anything, he only provides some part of his dinner.

885. The payment is actually made to the cook?—Yes, we have nothing to do with it. If they choose to have a piece of boiled mutton of the commonest order, or a rich dinner, they can have it, but they pay for it themselves, and it does not all come into the accounts of the Inn.

A. S. Thorndike, Esq.

30th June 1854.

886. Does a Junior pay any fees on entering?—I think about 12*s.* that is for preparing the bond for his Admission; he signs a bond.

887. What is the bond for, is it for the payment of any fees?—Yes, Absent Commons.

888. Anything else?—There are certain regulations in the Inn, that no person is to sleep in the Chambers; it is really to guard against females being indiscriminately admitted into the Inn.

889. Do people live in their Chambers?—I should say one-third of them do.

890. The rule is merely that strangers shall not sleep there?—Yes.

891. What is the process of becoming an Ancient, how is that achieved?—The Ancients receive an intimation from the Lower Table, that they have been called to the Upper Table, and from that intimation, the person takes his seat at the Upper Table, the Ancients themselves electing a Member from the Lower Table.

892. Is he elected by a majority?—Yes, I should say so; I believe it has always been unanimous.

893. In theory, it is the majority that elect him?—Yes, certainly.

894. There is no ballot?—No.

895. Is the Principal elected also from the body?—He is elected from the body of Juniors and Ancients, by the Ancients and Juniors together.

896. Is it an annual office?—Triennial.

897. Is it usually in rotation?—I think it has been; there have been exceptions to that rule.

898. Of what does the property of the Inn consist?—It consists of the Chambers.

899. Solely of the Chambers of the Inn?—Solely of the Chambers of the Inn.

900. Is there not any external property?—No; the Hall and the Chambers.

901. Do you let your Chambers?—Yes, we let our Chambers.

902. First of all, everybody belonging to your Body must have Chambers before he becomes a Member?—Yes; a person wishing to become a Member, must first be a tenant of the Inn, either a yearly tenant or a quarterly tenant. An Ancient must have Freehold Chambers; he pays for his Chambers the full value.

903. He pays down a fine?—No, nothing.

904. Upon being elected?—Yes.

905. As a qualification for that, he must be the owner of Freehold Chambers?—The Chambers have not been obtained from the Inn itself, but they have been held for a couple of centuries; they do not all belong to the Inn.

906. Have they bought them in Fee Simple or for life?—A person holds them for his own life, and though he may be seventy years of age, if he can come into the Hall he may surrender them to a very young man, and if that young man should live, he may surrender them again at the same age.

907. If he die without a surrender, the Chambers lapse?—Yes.

908. Must he be personally present in the Hall at the surrender, or can he do it by deputy?—It has been so within a twelvemonth; I do not think it is so now; he might do it by Power of Attorney, but that is only recently. It has occurred that a man would call *in extremis*, and wish to surrender his Chambers, and they have been lost from the circumstance of his not being present to surrender them.

909. Then they come back to the Society?—Then they come back to the Society.

910. Is there a large amount of the property of the Society standing out in this way?—I never made a calculation; if I said one-fourth, perhaps that would be about it.

911. In order to become an Ancient, a man must have a set of those Freehold Chambers, which do not belong to the Society; he must be in possession of Chambers in which the Society has no interest; he must purchase a Freehold set, and of course the Society has only that Contingent Reversionary Interest?—Yes, that is so.

912. Do you let the rest of the Chambers at a rackrent?—Yes.

913. With regard to those that are out upon Freehold Leases, is there any peppercorn rent paid, or anything which preserves your reversion?—No, there is no peppercorn rent.

914. When a person comes into the Hall, and surrenders, do you make a re-grant for life to another life?—When a person surrenders his Chambers to another, he has to go into the Hall, and that is entered in the copy of the Chambers.

915. Nothing passes from you?—Nothing.

916. Except that it is merely entered in the Hall, that he has surrendered to you, and you have re-granted?—Yes.

917. They do not pay any fine, or anything of that sort?—A small fine is paid.

918. That is in order to recognise the title of the Society?—Yes.

919. Does he sign anything in the book, or is he merely entered by the Steward?—When I had my Chambers, I bought them not of the Society. I do not remember signing anything, but I had an admission, and paid the Stamps upon the Purchase-Money.

920. You had an admission from the Inn?—Yes. I did not feel comfortable about it, and that is the reason that I went.

921. You dine in Hall a certain number of days in Term?—Yes, we do.

922. How many days?—Three days the last week in Term, and three days out of Term.

923. Do the Ancients dine at a separate table?—Yes.

A. S. Thorndike, Esq.

30th June 1854.

924. That is, twenty-four days in a year?—Yes.

925. Are the dinners of the Ancients paid for out of the funds of the Society?—Yes.

926. Is that the only privilege that they have?—Yes; they have no other privilege; we have a cellar, and of course they have wine.

927. Do you know whether your Expenditure is equal to your Income?—There is no surplus, in consequence of our having a Mortgage on the property of 8,000*l*.

928. Do you remember at any time having a surplus?—No.

929. Do you know at all what has been done with any surplus, if there has been any?—I know, from having seen some Documents, that there has been no surplus in the Inn at all. We are contemplating now pulling down the front of the Inn; it is getting into that state that ultimately it must come down.

930. With regard to the property not granted out upon lives, how is it held; what is the title, for instance, in the case of Chambers let out to yearly tenants; are they held by Trustees?—No, they are not.

931. Where is the Fee Simple of that property?—It is in the Ancients at the present time.

932. You are not a Corporation, so that the Legal Estate must be outstanding somewhere?—I think the Legal Estate is in certain Members of the Hall now.

933. Has it been conveyed to them from time to time?—Yes; we have not the Deed.

934. What was the Mortgage for, to which you alluded?—It was for the building for the Masters' Offices; they have been entirely rebuilt.

935. The Masters of which Court?—Of the Court of Chancery, the Taxing Office.

936. Is that your property?—Yes.

937. Are you connected with any Inn of Court?—I consider not, having had no connexion with them.

938. Have you any trace in your books of any connection?—We have not. Our only connexion with Gray's Inn is, that when a Serjeant is called from Gray's Inn, they ask us to breakfast.

939. Your body consists principally of Members of the Legal Profession, does it not?—When the names are put up, supposing we were to find a person not in the same rank of society as ourselves, we should not allow him to become a Member.

940. Have you, in fact, anybody in your Society, who is not in the Profession at all?—Not now we have not, unless they have been in the Profession and have retired from it; but I believe they were all Attorneys, in fact.

941. Have you any Library belonging to the Inn?—There are a few books.

942. Is there a room set apart for them?—No; the books are still there in the gallery of the Hall, to which there is no access, unless by a ladder, temporarily placed against the wall.

943. Have you any Chapel?—No.

944. Is your principal Expenditure in repairs?—Yes; and perhaps the expenses of the Inn, dining in Commons.

945. That is only three days in Term, and three days after Term, making twenty-four in a year?—Yes; and there is a Pension dinner after every Term, for the purpose of settling the accounts; that is, twenty-eight altogether.

E. R. Pickering, Esq.

EDWARD ROWLAND PICKERING, Esq., examined.

946. You are the author of a little publication with reference to the Society of Staple Inn?—Yes.

947. You state here, that in the reign of Henry the Fifth, or before, it probably became an Inn of Chancery, and that it is a Society still possessing the Manuscript of the Orders and Constitutions?—I am afraid that Manuscript is lost. The Principal has a set of Chambers, which were burned down, and his servant and two children were burnt to death, seventy years ago; and I rather think these Manuscripts might be lost.

948. That is a quotation from Herbert?—Yes.

949. Do you know yourself of any trace of connexion with any of the Inns of Court?—Certainly, I should say not. It is sixty years since I was there, boy and all.

950. There has been no Reader in that time?—Certainly not.

951. Has anything been done at all, with reference to Legal pursuits, or Legal Education, by the Body?—No, there never was in my time at all. The different leading men of different Societies have formed the Incorporated Law Society, and there they are effecting everything. It is impossible in these times to have a Library commensurate with what you might want. That Society furnishes everything that is required.

952. Do you contribute, as a Body, to the Law Institution?—No, only individually.

953. Has it occurred to you, that your property might be made more available than it is?—I should think it impossible. The larger part of the Chambers are held upon lives, with power of alienation.

954. Do you consider yourself extra or intra parochial?—Extra-parochial. We lost our pews in St. Andrew's Church. In the time of King James an Act of Parliament passed, requiring that every Parochial Body should go to Church. We subscribed very largely to the alterations of St. Andrew's Church, at that time; and about twenty years

E. R. Pickering, Esq.

30th June 1854.

ago they turned us out of our pews. We tried the case before a Court, but we could not carry it.

955. Have you ever paid any Chaplain or Lecturer?—No, never.

956. You have no Chapel?—No. We consider ourselves a perfectly voluntary Society.

C. E. Hunt, Esq.

CHARLES EDWARD HUNT, Esq., examined.

957. You are the Treasurer and Secretary of Barnard's Inn?—Yes, and deputed by the Principal to come here.

958. How long have you been Treasurer and Secretary?—I been in the Society thirty-four years.

959. Of what does your Society consist?—Principal, Ancients, and Companions. There is a Principal, nine Ancients, and five Companions.

960. In what manner do you select your Companions?—They are chosen by the Principal and Ancients.

961. What course does anybody take who wishes to become a Companion. Must he have a qualification?—None whatever; they are all professional men.

962. Must they be Solicitors?—Yes, and Clerks in Court. We have two Taxing Masters.

963. They have been Solicitors?—Yes.

964. Do they apply to the Treasurer, when they want to be admitted?—No; to the Principal and Ancients, generally. And if they have interest enough to be chosen in, they are introduced, and not otherwise.

965. Are you rather select in choosing them. Do you make some difficulty about choosing them?—We do not admit anybody but those who are known to the Society.

966. Have you many applications for admission?—None. A Mr. Gresham applied to the Court of King's Bench to be admitted, in Lord Tenterden's time, in 1827. Of course we refused him, and he applied to the Court; and after some difficulty, he got a Rule Nisi for a Mandamus. It came on to be argued before Lord Tenterden, and Lord Tenterden said it could not be granted, that we were a voluntary Association, and the Court had no jurisdiction.

967. Upon what ground did he put his right?—He said, as an Inn of Chancery.

968. Did he say that any Solicitor had a right to be admitted?—He begged to be admitted as a Solicitor.

969. When they are admitted as Companions, what advantages do they get?—Only the dining there.

970. They get no Chambers?—No. I pay for my Chambers.

971. When you are once a Companion, and want to become an Ancient, how are you elected?—When there is a vacancy, after being a Companion some time, they are elected an Ancient, perhaps.

972. What advantages have the Ancients?—Their dinners, and some little Fees.

973. Do they get Chambers?—No.

974. Do they hold Chambers for life?—No. The Principal is allowed a set of Chambers, and he is the only person that is allowed Chambers.

975. Do they pay any fine upon admission?—No.

976. Does the Principal hold his office for life?—No; three years.

977. Is he chosen by the whole Body?—Yes.

978. Of what does your property consist?—It is a very old Inn. The property is about 1,000*l.* a year, I think.

979. Is the property you hold only the Inn, or have you any out property?—There are three houses in Holborn; they are part of the front of the Inn, and the rent altogether is about 1,000*l.* a year.

980. Do you let your property at a rackrent?—Yes; I let them at a rackrent, myself.

981. You allow other people, besides Members of the Inn, to live there?—Yes, clerks in the City, and so on.

982. Have you any surplus?—We have about 1,000*l.* a year rent, and it takes about two-thirds for expenses; there is, I should say, one-third clear; but we have a very considerable fine to pay. We hold under the Dean and Chapter of Lincoln, and we pay a fine every fourteen years.

983. Is that a Lease for lives, or for years?—Forty years; we renew every fourteen years; we pay 1,400*l.* whenever we renew; but we are in debt.

984. Are there repairs too?—They are enormous, the place is so old. If you take about a third, and consider a fine of 1,400*l.* every fourteen years, it will be evident we cannot have much in hand.

985. £300 a year would give you more than 1,400*l.* at the end of fourteen years?—It would. We dine in the Hall; it is a kind of convivial party.

986. Do you know anything of the early history of your Inn. How long has this property been held of the Dean and Chapter of Lincoln?—Nearly 300 years. As far as I can trace it back, it always appears to have been by that Lease of forty years.

987. Do you find all the old Leases in your Muniment-room?—I believe so. They are

C. E. Hunt, Esq.

30th June 1854.

entered in the books. The last renewal was in the year 1848. We paid then about 1,400*l.* for it.

988. You take it in the names of some of the Members of the Inn?—Of the Principal and Ancients of Barnard's Inn.

989. How old are your Books?—300 years; but I cannot find any trace how we hold it.

990. Do you find any trace of anything that you did with the property; had you ever any Students of the Law there?—I cannot find any trace. The oldest thing I find is this, that a Reader came occasionally from Gray's Inn to read; but what he read about, or who paid him, there is no minute whatever.

991. How long is it since the Reader came from Gray's Inn?—I think nearly 200 years.

992. Have you any Library?—None whatever; there were a few old books, that were of no use, and they were disposed of.

993. Have you a pew in the Parish Church?—No; they deprived us of our pews, and put us to a great expense; we tried to get them, and we were quite foiled in it; we could not get them.

Adjourned to Tuesday, at 4 o'clock.

Tuesday, 18*th July* 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

General THOMAS examined.

General Thomas.

18th July 1854.

994. Are you conversant with the practice of Law in the United States?—I am.

995. In what State are you most conversant with the practice of Law?—New York. I have lived in three or four States.

996. Have you practised yourself?—Yes; but I was admitted to practice at a very late day. I spent the early part of my life in the Army, and I was not admitted till more advanced in life than when men usually enter the profession in America, and have only been in practice eight years.

997. You can, therefore, better inform the Commissioners of the modern system of Procedure?—Yes; I can also state what was the previous system, because I commenced my studies under the original system, and was admitted under the new system.

998. What was the original course of proceeding in the State of New York, with reference to any gentleman who wished to become an Advocate?—He was required to have graduated at some College, and to have entered his name in an Attorney's office, and pursued there, under the direction of an Attorney, the study of Law for three years. He was then examined before three persons, appointed by the Supreme Court of the State, and if he passed a satisfactory Examination, he was then, by the Supreme Court, licensed to practise Law as an Attorney. He was required to practise as an Attorney for three years, and I ought to mention that he was required both at the first and at the second Examination, to produce a Certificate of good moral character.

999. From whom was that Certificate obtained?—From respectable Counsellors known to the Examiners. At the end of three years of practice, as an Attorney, he was required to undergo an Examination on the principles of Law. The first Examination was chiefly upon the Practice. On the second Examination, previously to being admitted as a Counsellor, he was examined upon the principles of Law very thoroughly by three Counsellors appointed by the Supreme Court, and if that Examination proved satisfactory, he was then admitted to practise as a Counsellor, and could then appear and argue Cases in Court, and not till then. Previously he could only appear as an Attorney.

1000. The first procedure before he was admitted as an Attorney involved general knowledge, as tested by his having been at some University, and a practical knowledge of Law is tested by his having been in some Solicitor's office?—That was the practice in the State of New York up to 1846.

1001. Besides his having practised as an Attorney, was there any intervening course of study prescribed to him beyond the fact that he had passed a general Examination in Law?—No, that was not prescribed to him; he studied where he pleased, except that upon his first Examination he was required to produce the Certificate of an Attorney, that he had been a Student or clerk in his office, for the period of time mentioned.

1002. With regard to the general knowledge which was required at his first Examination, was it necessary that the University, at which he had studied, should be in the State?—No; in any one of the United States.

1003. Was it required that he should take a Degree?—Yes, of Bachelor of Arts.

1004. How many years, usually speaking, are Students at the University before they obtain their Degree?—Four years.

1005. When a person is admitted as a Counsellor, does he still continue to practise as an Attorney, does he combine the two?—Yes, he may practise either as an Attorney, or as a Counsellor.

1006. What change in the system has taken place since the year 1846?—Since that

General Thomas.

18th July 1854.

period the Examination has been for Admission to the Bar, and a person once admitted is admitted to practise in all the Courts of the State. There are no Degrees, therefore, of Attorney and Counsellor recognised by the Law. A Candidate for Admission to the Bar is required to be examined by three Counsellors, appointed by the Supreme Court, and licensed by the Supreme Court to practise Law as before, but after having obtained this License, he is then admitted to practise as an Attorney, or Solicitor, or Counsellor, as he may get employment.

1007. Is he required still to produce a Degree from a University?—No Certificate whatever. The Law is thrown open to everybody who can undergo the Examination, and produce a Certificate of good moral character. It is not necessary that he should have attended an Advocate's office, or any other office whatever. The only advantage of having taken a Degree is, that on its being produced before the Examiners, it would probably have an effect with them. A Degree at one of the Law Schools would have a very great effect in making the Examination a mere nominal one. The Law requires nothing but that he should pass an Examination satisfactory to the Court.

1008. Is this one Examination now extended to the Principles of Law as well as the Practice?—To some general Principles, but it is chiefly confined to Practice.

1009. How many hours does the Examination take, ordinarily?—Not more than half an hour, at the greatest extent. I have attended several Examinations, and I think no one was examined more than half an hour.

1010. In practice, have many been refused admittance since this New Regulation?—Considering the number admitted, I think not. I think I may say that there is as much Free Trade allowed in the Law as it is possible one can conceive.

1011. Looking at the duration of the Examination, is it much more than a matter of form?—It is very much a matter of form. It does not test the Candidate's knowledge of Law.

1012. Is it Oral?—Yes.

1013. Are there no Written Papers required?—No.

1014. Nor any Latin Theses?—Nothing of the kind. They are examined by those Counsellors who have been appointed for the purpose by the Court. Probably forty or fifty young men come in together, and they examine each one. I think I place the length of time to its greatest extent when I say half an hour, and often it does not exceed five minutes.

1015. And you say also that it is merely formal?—As far as regards testing one's knowledge of Law, or ability to practice, it certainly is so; but this Examination is confined chiefly to the Practice of the Law, the mode of bringing Actions, their nature, and generally those questions with which an Attorney is supposed to be familiar.

1016. Are private communications received, with reference to the impeachment of moral character?—I think they are.

1017. The Examiners consider themselves open in that respect?—Yes, they do, to the best of my knowledge.

1018. The party himself would be informed what the objection was?—Yes.

1019. Is there any Examination as to Scholarship at all?—No.

1020. Is there none whatever, as to any acquaintance with the Latin language?—No. The new Code abolishes all Latin terms.

1021. Was this change cotemporaneous with that which took place with the fusion of Law and Equity?—Yes.

1022. What proportion of the young men who have been annually admitted to the Bar since the change, have passed through a University, do you think?—I should think four-fifths.

1023. So that it is a general rule in the United States, to go through a University where there is a very good Legal Education and Legal Examination, before coming to the Bar?—I do not mean that four-fifths go through the Law School, but at least that proportion take the Degree of Bachelor of Arts, and many of them, besides, take a Degree at a Law School or University. We think that that portion of the community who have to employ Lawyers believe that Education is necessary, although some men who have not had the advantages of going through College and graduating at a University, may acquire this knowledge elsewhere, yet our people believe that the knowledge acquired in a Collegiate Education, is necessary, as a general principle; and it seems to be a recommendation with every one who employs a Legal man to do his business, that he should have had a regular education. It is so much in his favour. But occasionally we find a man who has acquired this knowledge through other channels.

1024. Is it competent to any person who is an Advocate, to exercise any other calling, a trade, for instance?—It is competent, but it is altogether unknown.

1025. It has been stated to the Commissioners, that in Philadelphia there is a mode of bringing Professional opinion to bear upon the Profession, by means of a Club or Association; is there anything of that description in New York?—There is nothing more than the Law Association.

1026. Do the majority of the Members of the Profession belong to that Association?—They do; at least all those who are at all distinguished.

1027. Would the opinion of that Body have any weight, or is it their habit to express an opinion upon Professional or Non-Professional conduct?—I think not, as an Associa-

tion; but I think there is no Profession in the United States, which has so much weight, as the Legal Profession.

1028. You think it is simply left to general Public opinion?—Yes.

1029. What Superintendence is there over the Bar. Take the case of a Barrister forgetting the rules of Honourable Conduct, in what way would his conduct be censured; would he be degraded?—The Court have power to degrade him, and the Public opinion of the Bar, which is very effective, could very well be concentrated upon such an individual, but the Court has the power to degrade him.

1030. As far as you can judge, you conceive that that has been a sufficient practical check?—Yes.

1031. Have you had any experience at all of the effect upon the Bar of the old and new Systems as to whether the one or the other works best?—I do not know that my opinion would be worth very much on that point, as my knowledge of the Bar has been chiefly under the new system.

1032. In England, Barristers who practise in Courts of Law, are rarely found in Equity, and *vice versâ* consequently they have different courses of study, and very frequently different orders of Legal Mind. Did anything corresponding with that exist in the United States, under the old system. Was the Bar divided into the Bar belonging to the Courts of Equity, and the Bar belonging to the Courts of Law?—Yes, it existed to some extent. Those men who had a peculiar qualification for appearing in the Courts of Equity were generally selected, both by their brother Lawyers, and by their reputation amongst Clients for the particular Court in which they excelled; but there was no Legal designation that they should appear in one or the other Court, all having liberty to appear in whatever Court they might select.

1033. But practically, were they separated?—Practically, in many cases, they were. I could point the Commissioners to many Barristers who appeared in a Court of Equity alone; many who took up the subject of Conveyancing; others who appeared almost entirely in the Court of Appeals, and so on. I ought to say that that divides the Bar to a certain degree, even yet. There are many eminent men of Legal knowledge, who have devoted themselves entirely to the business of Conveyancing, who never appear in Court at all, but who may appear where they please. Then there are others who do nothing but appear in Court constantly; and there are men of large Legal Attainments, who remain in their offices all the time, and prepare the Cases for others acting as Attorneys; so that, practically, I consider that the Bar has divided itself to suit the circumstances of the case, although the lines are not so distinctly marked as if they were recognised by Law.

1034. When admitted as an Advocate at New York, do you at once practise in the Supreme Court of the States?—Yes; and a person may appear in his own case, without ever being admitted to the Bar, and may argue his own case; but practically, that is not often the case.

1335. Is the State of New New York divided into Districts for the purpose of the Administration of Justice?—It is.

1036. Are you admitted to all the Districts?—To any part of the State.

1037. The Examining Body is usually at New York?—Yes, or where the Supreme Court holds its Session.

1038. Are you satisfied with the working of the new system, or should you wish to see any change?—I am satisfied with the new system entirely; it is the system that exists in all the States which were never Colonial States. The practice of Admission to the Bar was always the same in the new States as now exists in the State of New York; but an Examination was required, to admit persons to practise.

1039. And a Certificate of Character?—Yes; in all the new States, that is what is required now. The Examination is, perhaps, a mere form in most of them; but the Client looks to the man whom he employs, and he takes the responsibility, whether he gets a man of talent and character, or not; and generally the Clients are most astute in finding out those things with us.

1040. You trust to the Public to find that out?—Yes.

1041. Several of your Eminent Legal Writers have been Professors at Universities, have they not?—Yes.

1042. Was not Judge Story a Professor?—Yes, he was.

1043. Are the Judges selected from Advocates, or Professors at Universities?—Advocates always.

1044. Are the Judges elected at New York?—Yes, they are.

1045. Has that been the case recently?—It has been so since the last change.

1046. Are they elected for a term of years?—Yes; for eight years.

1047. That has only now just been tried; the eight years are now about to expire?—Yes.

1048. The election is generally renewed, is not it, for one Term?—Yes. The Judges of some of the Courts are elected for a shorter period than eight years; the eight years applies to Judges of the highest Court; but those Judges who are competent, and who are willing to be re-elected, have generally been re-elected; I hardly know an exception; but unfortunately, the salaries are very small, and we cannot get the first-class Barristers to go on the Bench; they will not leave a lucrative practice, to accept the Office

General Thomas.

18th July 1854.

of Judge unless they happen to have accumulated a fortune, when they will do it for the honour.

1049. What is the salary in the higher Court?—The salary in the Court of Appeals in the State is not so high as in the city, because, in the city of New York, persons are supposed to have larger expenses. The salary in the Court of Appeals is only 2,500 dollars, about 500*l.*; in the city of New York, the salary of the Superior Court Judges is 3,500 dollars, about 700*l.*

1050. You speak of being satisfied with this almost formal Examination. In New York, and in every State, are there not abundant means for every young man about to enter upon the study of the Law to obtain, in the State, a Legal Education?—Yes.

1051. That is provided?—Yes.

1052. So that a young man has not to seek a Legal Education for himself, but there are places where he may obtain it, if he desires it?—Yes; Legal Education in America is chiefly obtained in a Lawyer's Office; but a small portion of those admitted to the Bar take a Degree at a Law University. They take the Degree of Bachelor of Arts, and then he enters in an Attorney's office; some go to the Law School or University, and take a Degree before entering into an Attorney's office.

1053. You are aware of the practice that existed in England till recently, that a Student of Law was obliged to seek the best education he could find, and that no means were provided for him. That has never been the case in New York, has it?—No; places have been always open to the Student.

1054. And Degrees conferred in Law?—Yes; in many of the Colleges of the United States, we have Law Schools; most of our Students who resort to the Schools, go to the School at Newhaven, in the State of Connecticut, or Cambridge, in the State of Massachussets.

1055. Have you had your attention called to the distinction in this country between an Attorney and a Counsel?—No, I have not.

1056. The Attorney here does all the practical part, and the Counsel only opens his mouth in Court?—We think that the intercourse of the Client with the Counsellor has a very beneficial influence upon society. If a Client comes with a bad Cause, or one in which he is guilty himself, the Counsellor, if he is a man of the station and character which most Counsellors possess or occupy, a direct personal influence upon the Client would be exercised, that is beneficial in correcting his morals, if they be bad, and in preventing his bringing into litigation a matter which has not a plausible and fair appearance of Justice.

1057. You approve very much of the amalgamation of the two branches of the Profession in one person?—Yes.

1058. Do you mean to say, that in New York it is the province of the Counsel to ascertain the facts from the party?—It depends altogether upon the nature of the case. If it is a case of great magnitude, (I am not speaking now of Criminal Law, but questions of Property,) the Counsel always has an interview with the Client himself: he wishes to understand distinctly the grounds of the Action.

1059. That is after the materials of the case, the facts, have been previously investigated and laid before him in the Brief, is it not?—No; it is in the outset. That is a privilege which the Client claims, of seeing the Counsel, and conferring with him, whether he is to go to Law, or not.

1060. How is the evidence hunted up?—That is done by the Attorney and Client, but Counsel sees personally the leading witnesses.

1061. Who is the Attorney, as distinct from the Counsel?—The offices are divided according to the nature of the business. A man begins to practice Law in New York, for instance, and he has one or two cases. He then does all the business himself; but his business increases, and he has more than he can do himself, and he then employs a clerk, who takes a part of it off his hands; then he employs an Attorney, and the cases that require no investigation, such as bringing a Common Action, would be commenced by the Attorney, without seeing the Counsellor, unless there was a special request made in the matter.

1062. So that the Attorney is nominated and employed by the Counsel?—Yes; he generally belongs to his office.

1063. And generally speaking, there is a partnership, is there not?—Yes. The moment the business becomes sufficiently important to justify the taking in a partner, the Counsel takes in this man whom he has employed as Attorney, or some one else, as his partner, and he does the ordinary business of the office, while the other goes into Court.

1064. Are there men of considerable eminence, such as the late Mr. Webster, who never act in any other way than as Counsel?—Yes.

1065. Practically, in all important cases, there is the same division of labour between the Counsel and the Attorney, in the United States, as exists in this country?—Exactly so; but it is rendered so by circumstances. If you go into States which are new, where the population is spare, there are few Law-Suits, and the Counsel will sit in his office half the day, and talk with a Client, for he has nothing else to do; of course, in that case, he needs no Attorney.

1066. Is not the effect of this system, that in all simple Causes, only one agent is employed?—Yes.

General Thomas.

18th July 1854.

1067. Therefore it is much cheaper in practice than the system pursued in this country, of having two agents in every case?—Yes; this is certainly true.

1068. Can you give the Commissioners any idea of the expenses of a suit, so far as the Counsel's Fee goes?—For the first class Counsel the Fees will vary from 50 dollars to 2,000 dollars; if the Fee were above that, it would be a case out of the ordinary magnitude.

1069. For what class of case would a Fee of 50 dollars be considered adequate remuneration?—It would depend somewhat upon the amount involved. It would be a very small amount involved when 50 dollars would be a compensation.

1070. How many of such cases might be disposed of in a day?—A dozen probably; but where the Fee was 500 dollars, probably it would take the whole day, and very often longer.

1071. Does that include the whole of the remuneration to the Counsel in that Suit?—No; there are certain Costs that are allowed, and which are specified by law.

1072. Which the losing party pays?—Yes. Sometimes the Court think proper to decree that each party shall pay their own costs. An important Counsel would hardly appear for less than 100 dollars, to make an argument.

1073. Does the Counsel fix the Fee, or how is it fixed?—In this way. Whenever a suit is undertaken, the party ascertains from the clerk probably, or some one who has employed him before, or from his own knowledge of the matter, that he ought to pay him a retaining Fee at the commencement; that is ordinarily not very much. If the suit is an important one, he gives him a 100 dollars at once, and perhaps more, depending on the nature of the case. When the argument in the cause takes place, the clerk sends in a bill for 500 or 1,000 dollars, as he thinks fit.

1074. Is that merely for pleading, or are there any charges for copying papers?—The costs are all separate. He sends in a bill for "Arguing the Cause in Court of Appeal, 500 dollars," or whatever the charge may be.

1075. In the case of a gentleman who confines himself solely to the duty of an Advocate, his Fee would be arranged by the Attorney or Advocate conducting the cause?—No; he would send in a charge in his own name, or that of the firm, and probably there are fewer of those bills disputed than any others in the world.

1076. It is recoverable by law?—Yes.

1077. Is it a quantum valeat?—If it were to be resisted, it would be left, of course, to the Court and to the opinion of Lawyers of some standing, whether it was too great a Fee or not.

1078. Would not the Court refer it?—Yes.

1079. It could be sued for before a Jury, could not it?—Yes.

1080. Does that Fee go to the partnership, or to the Advocate alone?—To the partnership.

1081. The bill is sent in as a partnership bill?—Yes. The bill is sent in as a partnership bill for arguing cause, so-and-so, and the name of the firm.

1082. What would be the Fee in a common case like a Bill of Exchange?—In the State of New York, it would be about 2½ per cent. In the Southern States, it is 5 per cent. invariably, anywhere, on the amount recovered, no matter how large it is, when a debt is collected.

1083. If nothing is recovered, is nothing paid?—The expenses are usually paid; but nothing more.

1084. Is that the case, whether the Action is disputed or not; suppose a Bill of Exchange pleaded for delay?—Ordinarily, there is nothing in the Southern States, except the commission.

1085. In ordinary causes, it does not depend upon success?—No.

1086. What do you call sending a bill for selection, must you go to Court?—Yes; you must go to Court by a regular suit, if a demand by Counsel is unsuccessful.

1087. Is not 2½ per cent. rather high upon a large bill, if there is really no defence?—Yes; but ordinarily, in the State of New York, and in all the great commercial cities, there is a special agreement made in those matters, when it varies from the ordinary rules in collection cases.

1088. In the case of a bill of 1,000*l.*, 25*l.* is a large fee, if there is really no dispute?—Yes.

H. J. S. Maine, Esq., LL.D.

HENRY J. S. MAINE, Esq., LL.D., examined.

1089. You have for some time filled the Office of Reader on Jurisprudence and the Civil Law to the Middle Temple?—Since September twelvemonths.

1090. How many general Examinations have you had since that period?—Five general Examinations.

1091. The course pursued is, that the Students are compelled to attend the Lectures?—They are compelled to attend two Courses of Public Lectures; there is no obligation to attend the Examination.

1092. Nor to attend the Private Classes?—No.

1093. Have you found that the Students in great numbers select your particular Class?

H. J. S. Maine, Esq., LL.D.

18th July 1854.

—The attendance has very considerably increased; it was exceedingly small when we began.

1094. Could you give in a Table showing the attendance?—Yes, I could do so easily; it has increased progressively.

1095. Have you found the attendance upon your Private Lectures increase?—I think it has not varied materially. At present the attendance at all the Private Classes is, I believe, very much the same. It is the part of this new system which competes most directly with the old method of training in Chambers.

1096. What number of Students have attended the Public Lectures on Roman Law?—In the present Term, the largest number of Students who have signed their names in the book, is seventy-one, but a considerable number of persons are occasionally present who do not sign. I have had as many as 120; but every now and then the number signing will drop to less than sixty, and the total audience to less than eighty.

1097. With regard to the Examinations, it is but a small number who present themselves?—The number of persons presenting themselves for a Pass has been very small. My impression is that nearly all have attended who had a fair prospect of obtaining Honours.

1098. Have you found that the character of the answers to the Examinations has improved in each successive Examination?—Astonishingly; and in Roman Law quite as strikingly as in any other department.

1099. Has it happened that the second man, on any one Examination, has been better than the first man on the previous Examination?—That has occurred for two, if not three Examinations.

1100. What have been the numbers of those who attend the Private Classes?—On the average, we begin, I believe, with about ten or twelve, and that dwindles down to five or six before the Term is completed.

1101. Even those who do attend fall off?—Yes, the Lecturer gets beyond them.

1102. Have you had your attention at all called to the question, of whether or not the new system has been considered by any of those in the habit of taking pupils to interfere with the old established system of attending in Chambers?—I have heard so in conversation, not otherwise.

1103. Do you know at all whether those who attend your Public Lectures do attend at a Special Pleader's or a Conveyancer?—I have no means of ascertaining.

1104. How is it with respect to those who attend the Private Lectures?—Some of the Students who constitute my Private Class, are actually attending Chambers at the present moment, and others intend to study with a Practitioner ultimately.

1105. Having had an experience now of nearly two years, do you conceive that the present system of Education works well on the whole?—It has certainly succeeded, so far as its defects have allowed it to succeed.

1106. To what defects do you allude?—The course strikes me as defective, first, from a want of systematic character; and next, from the absence of a Compulsory Examination at its close. These I believe to be the only serious blemishes, and I think that every shortcoming may be traced to one or other of them.

1107. What do you mean by "want of systematic character"?—There are no Rules prescribing the order in which the Students are to take up the different branches of study, or the period of their connexion with the Inns of Court, at which they are to be first brought into contact with the system. They look upon these new arrangements as so many onerous conditions imposed on the Call to the Bar; they give themselves the minimum of time for satisfying them, and thus, when they do come into contact with the system, they are too late to avail themselves of its full advantages; in particular, they cannot attend the Private Classes. They are in the midst of attendance at Practitioners' Chambers, and are naturally unwilling to give up what is in fact part of the consideration for a very large payment.

1108. What remedy would you suggest for that state of things?—The simplest remedy would be to retain the obligation to attend certain Courses of Lectures, to declare that one of those selected should be either Jurisprudence and the Civil Law, or Constitutional Law and Legal History; and then to insist that this course should be attended within a certain limited period after joining the Inn of Court. The Student would thus be brought into contact with the system at a sufficiently early period. I am most anxious also that the proper succession of subjects should be observed, that the more speculative branches of study should be engaged in before proceeding to the more practical. The minds of young men are never, I find, in a worse condition to consider the higher principles of Law, than when they are on the eve of embarking in actual practice. Just then, the necessity for shaping every question with a view to immediate success is apt to take precedence of all other considerations.

1109. At present they may take the subjects when they please and how they please?—Yes, and they come to us, almost universally, when they are removed by three Terms only from the period at which they will be entitled to their Call.

1110. In your judgment, a Compulsory Examination would be advisable?—I believe it to be the only means of absolutely ensuring industry.

1111. Would you recommend a monthly or periodical Examination on the subjects of particular Lectures, or would you consider the final Examination sufficient?—I think a

H. J. S. Maine, Esq., LL.D.

18th July 1854.

final Examination would be sufficient. Perhaps minor Examinations in the Private Class Room might be useful; but the Examination of Students attending the Public Lectures would, in fact, resolve itself into an Examination of the whole Body.

1112. Would you have that Examination exclusively professional, and not as to general scholarship?—I would certainly not omit the subjects of Jurisprudence and Roman Law, or of Constitutional Law and Legal History.

1113. Looking at the subject as a Barrister, have you considered any inconveniences that might result to the Profession generally, from compelling all persons coming to the Bar to be examined; would it have any disadvantageous effect in repelling a class of persons who lend distinction to the Profession?—Not necessarily so. The Call to the Bar is more valuable, as money's worth, than a University Degree, and the class referred to willingly undergo an Examination for the sake of obtaining a University Degree.

1114. It is supposed that there are some men who wish to be called to the Bar, not with the view of practising, but with the view of being County Magistrates, and that they might be deterred from being called to the Bar by having to undergo an Examination; do you think it will have any effect in that respect?—I have always thought that the number of persons called to the Bar, under such circumstances, is much smaller than is commonly supposed. My belief is, that we habitually confound them with a very different class of men—those who come to the Bar to qualify themselves for the Civil or Legal appointments appropriated to Barristers of a certain number of years' standing. With reference to these last, it may be a question whether the Country has not a right to the Examination as a criterion of their fitness for the Public service. But, as respects Students of more disinterested views, I venture to think, judging from what occurs at the Universities, that they will not be repelled, in any great number, by a properly regulated Examination.

1115. Is not there a difference in the age?—Yes; but perhaps the subjects of Law and Jurisprudence are proportionately congenial to grown men; to men of formed minds.

1116. Do you not think, that after men leave the University, they are rather unwilling to be put in a state of pupilage?—It may possibly be so; but the conditions they are called upon to satisfy will not amount to very stringent discipline.

1117. In connection with the Universities, do you think that any good assistance might be rendered to the Legal Profession?—A scheme has been adopted by the University of Cambridge for the reconstruction of the Faculty of Law—for the organization of a regular department of Legal Education in connexion with the University course.

1118. Do you think, in connexion with these Lectures at the Inns of Court, that if the Course were followed with a Compulsory Examination, it would fit a man for practice at the Bar, without the course now pursued?—I do not say that positively. I am quite certain that he would be much more efficient in Chambers when he got there.

1119. From your acquaintance with the University and the Bar, do you conceive that it would be beneficial to diminish, in any degree, the time allowed for the general course of study at the University, by applying the mind to the particular study of the Law there, in order to advance it somewhat in that particular branch of study, or do you conceive that the general study being perfected at the University, and then afterwards the persons coming to the Bar, and applying themselves to that peculiar and limited study, would be more beneficial?—I think there would certainly be an advantage in having Legal Studies commenced at the University.

1120. Do you conceive there would be time enough at the University for men who wish to acquire general information to devote their time also to the study of Law?—They could only lay the foundations of Legal knowledge.

1121. Would you suggest Honours for the Law?—Honours will be bestowed for Law at Cambridge under the new arrangements, and there is now a School of Law and Modern History at Oxford.

1122. Will it be any part of the new system to give an Honour in Law to a man who has not taken any other Degree?—There is to be a general previous Examination, and then the Student is to select his own branch of study.

1123. Hardly any course is likely to be recommended in which classical information would not be acquired, as well as Legal information?—I have with me the Report (*see* Appendix p. 264.) of the Syndicate upon which the plan for the re-organization of the Law Faculty is founded. Perhaps, owing to the prestige of the old studies, Mathematics and Classics, the flower of the Students may still follow them by preference for some time to come.

1124. It is not proposed to abridge the time for study at Oxford for Classical Literature, and at Cambridge for Mathematical Literature, in favour of this new system, is it?—Students will be permitted to choose Legal Honours instead of Mathematical or Classical Honours; but, as I stated a moment ago, I am not prepared to say that the change will operate very rapidly.

1125. Do you conceive that if gentlemen pursue the course which is now adoped, of reading at least two years, with either a Pleader, or a Draughtsman, or a Conveyancer, there would be time for a person who has left the University to acquire also a general knowledge of Law as a Jurist by attending the Course of Lectures and the Examination?—I think so.

H. J. S. Maine, Esq., LL.D.

18th July 1854.

1126. Do not you think that a young man who has given his 100 Guineas Fee desires to devote the whole of his time to the Chambers of the Practitioner to whom he has paid it?—Unquestionably, when the Fee has once been paid.

1127. If it is necessary hereafter still to go to a Practitioner's Chambers, do not you think it will operate upon the mind of a young man; he will not like to spare the time for Lectures that he has paid for elsewhere?—I assume that the Fee will not be paid till he has finished his preliminary Education with the Readers; and I am sure that as regards Students so trained, the time with the Practitioner might be considerably diminished—that six months, for example, might do, instead of a year.

1128. At present it is usually two years?—Yes. One year with each Practitioner.

1129. First he goes to a Conveyancer, and then he takes another year with a Pleader?—Yes.

1130. How much would you reduce the time devoted to study for the Bar under the new system?—I myself should prefer limiting the course of study in the School of the Inns of Court to two years, holding a Compulsory Examination at the end of the two years; granting the Call to the Bar immediately afterwards; and then enforcing a Year of Silence, imitated from the Ecclesiastical Courts.

1131. The practical information might then be acquired in Chambers?—Yes. As to the Year of Silence, the same result would of course be attained by interposing a year, clear of Compulsory Study, between the Examination and the Call to the Bar. But I think the system would be characterized by greater symmetry and consistency, if the Year of Silence were introduced. I see no prospect of the Inns of Court exercising control over the Education in Chambers, and I am desirous that by throwing it over the Call to the Bar, they should acquit themselves of the responsibility of either sanctioning or condemning it.

1132. That would be increasing the length of time; if the time is now two years for study, you would increase it to three years before admission to practice?—Yes, if two years be the whole time; but I think that, besides the two years in Chambers, most men devote a twelvemonth to Private Study.

1133. A man must be a Member of an Inn now for three years?—Yes; but that is not necessarily more than nominal.

1134. At present it is more common than not, for gentlemen to be employed three years in study before they go to the Bar?—Yes.

1135. In the general run of those gentlemen called to the Bar, three years intervene between their leaving the University and being called to the Bar?—Yes.

1136. What length of time do you contemplate will be sufficient for a Legal Education under the system which you are pursuing?—Two years under the superintendence of the Readers, and one year afterwards in the Chambers of Practitioners.

1137. That leaves three clear years for Study?—Yes.

1138. Have you any experience as to the length of time now occupied in study?—From my own experience, I should have named three years as about the time occupied.

1139. You have stated that you think Examinations are desirable. Do you conceive that the full benefit of the Lectures can be derived by any Student unless he knows that he is also to undergo an Examination upon the subject of them?—I think not. There is, of course, a Class who are as strongly attracted by the Voluntary Examination as they would be by one that should be Compulsory; but, setting them aside, I think not.

1140. Have you ever considered whether it would be advisable that there should be any previous Examination before a party is admitted at all as a Student at an Inn?—It has always appeared to me that every Student ought to have the elements of a liberal education.

1141. If there be a Compulsory Examination before Admission to the Bar, it would secure, at all events, his having the necessary information before he is called?—Yes.

1142. Would there be a possibility of conferring Degrees in Law by a Faculty in London, and then leaving the Call to the Bar to be something independent of that, to be applied for or not, as parties might desire?—I can hardly say that I have considered the subject; but the project strikes me as perfectly feasible.

1143. Might there not, in the case of gentlemen who are likely to become County Magistrates, be some advantage in allowing them to take a Degree in Law without putting them to all the expense of a Call to the Bar, the Degree to be conferred in consequence of the Examination, so that a person might take a Degree in Law, and then simply as a further matter of expense might be Called to the Bar upon the Degree if he thought fit—having additional privileges, he would have something more to pay?—There would be obvious advantage. If any persons are deterred by the Examination, they might be re-attracted by the diminution of expense.

1144. Might there not be an Examination for classing persons as they are now classed, so that there would be a Degree given, but given by a Faculty of Law instead of a University?—I see no objection whatever to it.

1145. Do you think that any advantage would be derived by holding out greater inducements to persons taking Honours; if, for example, you allowed a person who had passed a very distinguished Examination to go per saltum to the Bar?—I am far from wishing that persons should be advanced to the Bar per saltum. The method of education I believe to be almost as important as the positive knowledge acquired. The great drawback on Examinations in general is the danger of *cramming*, of mere servile preparation for the Examination Room. The only remedy for that is to insist on the

H. J. S. Maine, Esq., LL.D.

18th July 1854.

Students using your own instruments of education, or, at all events, to take security that they have elsewhere followed out systematically a Course of study of which you approve.

1146. Practically, you have not found that the attendance on the Private Classes has enabled persons to dispense with the expense of reading with a tutor?—The Class in Jurisprudence and Roman Law furnishes a very insufficient test; but I have heard casually that the Student who obtained the highest Honours at the last Public Examination does intend to dispense with attendance at Chambers.

1147. That gentleman passed a very distinguished examination upon all subjects?—Yes, greatly distinguished.

1148. Is not there a class of young men who cannot afford very well the expense of going to a Special Pleader or Conveyancer, but who are able to attend Private Lectures?—I have no doubt there is such a class.

1149. In that way, the system of Private Lectures would benefit the body of the Bar very much?—Unquestionably.

1150. It would have the effect, also, of opening the door of the Bar to a great many more?—Yes; a class, now excluded, would be enabled to enter.

1151. Would that be an advantage?—I think there would be no disadvantage in it, because the Compulsory Examination would guarantee the acquirements of the persons admitted.

1152. Do you not think, looking at the course which the Law is taking now, that an acquaintance with principles is likely to become more important?—Yes; and therefore I trust that proportionate importance will be attached to the study of the Roman Law.

1153. Have you been able to judge whether any advantage has resulted, with regard to the new system, from the young men being brought a little more into contact with each other, and from the discussions which result from that?—My belief is that very active discussions do go on among them.

1154. You think that the Students do converse with each other on Legal Subjects?—I believe so.

1155. You have not at present instituted Public Discussions upon subjects of Law?—The Private Class is, to a certain extent, conversational; it is a Catechetical Lecture.

1156. Had not the Lecturer upon Real Property, Mootings?—The Lecturer who preceded the present Reader had Mootings; but it is no part of the system of any of the Readers at present.

1157. Have you formed any idea of your own,—can you give the Commissioners any general notion of what, in your judgment, would be the best mode of planning out a system of Education for the Bar?—There are a few suggestions which I should like to lay before the Commissioners, directed to the improvement of the existing system. They are,

(1.) That the course of study under the Inns of Court should last two years, and that the Student should be under the obligation of commencing it within a certain specified period after attaching himself to one of the Inns.

(2.) That Students should be directed to attend one Course of Public Lectures in the first year, such Course to be either Jurisprudence and the Roman Law, or Constitutional Law and Legal History; and that two Courses of Lectures should be required in the second year, to be selected from Common Law, Equity, and Real Property Law.

(3.) That any Council or Body entrusted with the Superintendence of Legal Education under the Inns of Court, should, if satisfied with the Books and Subjects prescribed by the Board of Legal Studies at Cambridge, or with the Books ordered to be read in the School of Law and Modern History at Oxford, have power to dispense with the Compulsory Attendance at certain Courses of Lectures, in favour of Members of the Universities graduating with Honour in their respective Law Schools.

(4.) That there should be a Compulsory Examination of all Students, at the close of their second year of study in the School or Faculty of the Inns of Court.

(5.) That every Student who has passed the Examination should be entitled to be called to the Bar immediately, and that a Year of Silence should be enforced after the Call.

(6.) That, in order to render the Honours awarded more conspicuous, the three Honour Examinations now holden in the year should be consolidated into one, to take place at the end of the Long Vacation.

(7.) That three Scholarships should be awarded at this Examination, one to be called a Studentship, and the other two to be termed Exhibitions.

(8.) That there should be not less than two Pass Examinations in the year, to be distinct from the Honour Examination.

(9.) That the books and subjects for the Pass Examinations should not be changed from one Examination to the other.

(10.) That, if any new Readerships are established, they should be on the following subjects:—

(*a*) International Law, and the Modern Civil and Canon Laws, as applied in the Ecclesiastical and Admiralty Courts.

(*b*) Criminal Law and Medical Jurisprudence.

(11.) That the third Educational Term should be abridged.

H. J. S. Maine, Esq., LL.D.

18th July 1854.

1158. Did not the gentleman who obtained the last Studentship pass a very good Examination in your particular department?—He was not absolutely first, but he passed a very good Examination.

1159. Has that been the case with the other Students; have they been competent in Roman Law?—The Student appointed the first time was comparatively inferior in Jurisprudence and Roman Law.

1160. You have not found any of those who have taken a distinguished position, who have wholly neglected your subject?—No. Generally speaking, the gentleman elected Student has been first in Roman Law.

1161. Are the Readers gentlemen who are practising in the Profession?—They are all practising in the Profession; but the office has very much interfered with their practice. This has been the case more especially, I believe, with the Reader on Common Law.

1162. Is not that very embarrassing?—It is very embarrassing.

1163. Do you consider that the emoluments are equal to the duties?—It is a difficult question to answer. Without, probably, either the Inn of Court contemplating it on the one hand, or the Reader on the other, the whole time of the Reader has been virtually purchased. The labour of preparing the Public Lectures was excessive in the first year, but it has not been quite so heavy since.

1164. Looking through the papers is, of course, laborious?—Yes; but preparing the Public Lectures is the great labour.

1165. Have you any other suggestion that you would like to make to the Commissioners?—I believe there is no other.

Adjourned to Thursday next, at 4 o'clock.

Thursday, 20th July 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

Herbert Broom, Esq.

20th July 1854.

HERBERT BROOM, Esquire, examined.

1166. You are the Reader of Common Law?—Yes.

1167. You have been Reader since the first institution of the new system of Legal Education?—Yes, since it came actually into operation.

1168. From what date?—From November 1852.

1169. The attendance at the Public Lectures is compulsory, is not it?—Yes, on such as do not submit to and pass the Examination.

1170. With the power of selecting the Lectures?—Yes, there are two Courses to be attended,—two Courses of one year each.

1171. Have you a numerous Class?—Yes.

1172. How many attend the Lectures?—The numbers have varied from 80 to 100 during the last few months.

1173. The Private Classes are voluntary?—Yes, entirely so.

1174. Do you find many in your Private Classes?—No, at present there are but few, and this year there are fewer than last.

1175. To what do you attribute that?—To the fact of there being no Compulsory Examination. There is no inducement held out to Students to attend.

1176. Do you conceive that a Student might, by means of the Lectures and the Private Class being combined, acquire sufficient knowledge to obviate the necessity of his attending at a Special Pleader's?—Certainly not; attendance at a Pleader's would be necessary, as a preliminary to actual practice.

1177. May not that necessity have some influence in preventing the attendance of Students at the Private Classes, they finding that they must nevertheless attend a Special Pleader's?—I do not think that ought so to operate, inasmuch as few would attend at a Pleader's Chambers more than a year and a half. Students attending at a Pleader's Chambers would not be likely to attend also the Private Classes. Some Students, moreover, attending the Lectures had doubtless, prior to the present system coming into effect, made arrangements for attendance at Pleaders' Chambers.

1178. You spoke of an Examination, as in your judgment being required. Do you consider that it would be advantageous to the Profession generally, that there should be a Compulsory Examination of Students for admission to the Bar?—Most decidedly I do.

1179. Would you suggest more than one Examination, an Annual Examination, or simply an Examination at the termination of the Course?—The plan which I should think would be best is this, to have a Course of Legal Education, extending over certainly not less than two years, (and I should, individually, think that it should extend over three years,) with the option of employing the third year in the Chambers of a Conveyancer, or Special Pleader, or Equity Draftsman. I think at the end of the three years there ought to be a Compulsory Examination for the Degree of Barrister, simply. Besides that, there ought to be a Voluntary Examination for Honours; that should be entirely voluntary. I do not think there need be above one of those Voluntary Examinations for Honours in the course of the year, certainly not more than two; but I think there ought to be three Examinations for the ordinary Degree of Barrister in the course of the year.

1180. Would your idea be met by allowing the party either to take what is actually called a Degree, or to pass an Examination at the end of two years, and that no one should be called to the Bar till he had passed that Examination one year ; or would you make it absolutely compulsory also to attend a Pleader's ?—I would suggest that it should be compulsory upon him to attend three years, unless he chose to devote the last of those three years to attendance at Chambers.

1181. Do you think that one year's attendance in Chambers, with the advantage of the two years' Education, by way of Lectures, would be enough ?—I think those who do not find it so may, without prejudicing their interests in any way whatever, devote another year to attendance at Chambers, after they are called.

1182. Do you consider three years, with reference to the majority of the Students, as much as the resources of an ordinary Student would meet ?—I think it would be so, but I am quite aware that it might operate sometimes to prevent a young man from going to either University.

1183. You think that he would conceive that the expense would be too great of being at the University, and attending those Courses ?—I do not think it would generally be so considered, speaking from what I know.

1184. Would you suggest any previous Examination before the admission of a Student at all ?—I think there ought to be an Examination in Classics, to test whether he possesses a liberal Education ; but no Legal Examination.

1185. Do you think that a part of the time at the University could be well employed in giving instruction in Law ?—I do not think so.

1186. You think that the time at the University would be better devoted to general education ?—Very much so. I do not think that Law can be successfully taught at the University, I mean the practical part of Law. I refer particularly to the following three departments of the five now recognized as existing, namely, Equity, Real Property, and Conveyancing and Common Law.

1187. Do you not think that General Jurisprudence, International Law, or Civil Law, or a smattering even of those sciences, might be, with advantage, communicated in a University ?—Certainly ; that is why I wished to qualify my observation.

1188. There might be perhaps some general acquaintance with the principles of Law through the medium of Civil Law, International Law, and Constitutional Law at the Universities ?—There might be, particularly by means of Constitutional Law and History.

1189. You would not advise any Examination upon any of those subjects previously to admission at an Inn of Court ?—No.

1190. What is the average amount of attendance at the Private Classes ?—During the last three or four months, I should not think the average can have been above seven, perhaps under ; latterly, certainly under

1191. Do you find that those who have attended the Private Classes, usually become Candidates for the Examination for Honours ?—Some have usually been in the next Examination. There have been but few Candidates at the Examinations up to the present time.

1192. The Examinations have been confined to numbers varying from seven to ten ?—Yes, about that number.

1193. During the two years that you assign to the Lectures, before a Student goes into Chambers, should he be required to attend any particular Course ?—I think he ought to be obliged to attend either the Civil Law Lectures or the Constitutional Law Lectures during the first year ; and I think that in the second year he should be compelled to attend one of the three other Courses of Lectures, leaving the remainder entirely optional with him.

1194. There are no Examinations now by the Reader on the one day, as to the Lecture on the preceding day, are there ?—No, there is nothing of that sort ; but with my own Private Class, I adopt a system of frequently asking questions, vivâ voce. The Public Lectures simply consist of reading a prepared Course.

1195. Do those who attend ask questions after the Lecture ?—Very rarely indeed, after the Public Lecture.

1196. Can you form a judgment as to the degree of interest that they take in the Public Lectures ?—I should say that rather more than half take copious notes, extending to every Case that is cited, or nearly so.

1197. Have you found that the Examinations of those who have presented themselves as Candidates for Honours have progressively improved ?—Yes, certainly ; in a very marked way.

1198. They have shown a more general knowledge upon every subject ?—Yes ; and that has been more strikingly shown by those obtaining the higher Honours.

1199. Has it been found, in your case, that the gentlemen who obtained the highest Honour in one year, has had fewer marks than the gentleman who is second in the succeeding year ?—Yes, I think so.

1200. Have you any Mootings at present among the Students ?—None.

1201. Do you think that discussion and the arguing of Cases, would be advantageous ? —I think that attendance at the Debating Societies answers the purpose almost entirely.

1202. You would leave that to the Voluntary Associations of the Students ?—Yes ; I am inclined to think so.

Herbert Broom, Esq.

20th July 1854.

1203. At present the only advantages offered to a gentleman who has tendered himself for Examination, are a Studentship of fifty guineas for the best Candidate, and exemption from two Terms for the next three men, if the Council think it desirable?—Yes.

1204. Do you think that a sufficient stimulus, or would an additional stimulus increase the number of Candidates?—I think there ought to be an additional stimulus, in the shape of some kind of Degree, to be conferred upon those exhibiting a certain amount of knowledge. This plan would, I think, very much increase the number of Candidates.

1205. Have you ever considered the subject of having a general Faculty of Law in London, as in Edinburgh?—Yes. For that purpose, there must be a Law University formed. Individually, I see nothing to prevent that.

1206. There would be a Governing Body, formed by election from the four Inns?—Yes; that is my opinion exactly. The four Inns ought to be so many Colleges, the aggregate of which should form a University, in which the Inns should be represented by Members of the Council, elected by the different Inns of Court.

1207. Is not that purpose answered, to some degree, by the Council of Education?—Yes, to some extent.

1208. You would have it more formal, and with the sanction of a Charter, probably?—Yes.

1209. Would you think it right to entrust to a Body so elected, a question respecting the discipline of the Bar?—I think that would be more conveniently left under the superintendence of the Inns of Court; so that, before a Student could be called to the Bar, he would require two Certificates,—one from the particular Inn to which he belonged, stating that his conduct had been marked by propriety, and so forth; and the other from the Council or University, stating that his attainments were sufficient to justify his being called to the Bar.

1210. You would leave the Call to the Inns of Court?—I cannot see that that would matter. Each Inn might formally call its own Members.

1211. It should be a sine quâ non that those Certificates should be produced, before a person could be called anywhere?—Yes.

1212. With regard to the Classical Examination previously to Admission, of which you spoke, would you dispense with that in the case of parties who had obtained Degrees at Universities, considering that to be a sufficient guarantee?—Yes; I think that would be so.

1213. But anything under a Degree; for instance, Certificates of Attendance for two years at a College at either of the Universities, showing that the Candidates are persons studying, you would not consider sufficient?—No, I think not.

1214. Have you any further suggestions that you would like to make as to improvements upon the present system?—I have two or three suggestions which I should like to make. The first is with reference to Private Classes. I think there ought to be three or four Examinations, conducted merely by the Reader, and by means of Printed or Written Papers of Questions. That, I think, would do a vast deal of good.

1215. Do you mean in the Classes?—At present there is nothing to test the advance which may be made by the Students, except by asking questions occasionally.

1216. Is not that a matter which the Reader himself might introduce?—I should not feel myself authorized to do it without the sanction of the Council.

1217. What further improvements would you suggest?—I think that the public, Non-Professional persons, ought to be admitted to the Public Lectures on payment of a very trifling fee, so as to place within the power of all, the means of obtaining a knowledge of the Outlines of Law. It seems to me that that is the best mode of attempting to give effect to the ideas of Blackstone, as exhibited in his Introductory Discourse. Another point to which I should wish to direct the attention of the Commissioners, is the importance of forming a Library exclusively for the Students.

1218. Do you mean a general Library for all Students in any of the Inns?—Yes; I think it ought to contain duplicates at least of all the Common Standard Treatises upon Law and Equity, and so forth, and probably a Duplicate Series of Regular Reports.

1219. Do you suggest a Library from which the Students should be allowed to remove the Books?—No.

1220. Is not that in a great degree answered by the liberty given at all the Inns of Court, for Students and Solicitors to consult their Libraries?—I think not, because so many attend some of the Libraries, that there is no possibility of getting the Books.

1221. If there was a Faculty of Law, it would be almost a necessary part, to have a Library?—Yes. I think, moreover, it is very important to have a Library for Students, exclusively. They require to have a book in their possession much longer than a Practitioner. I believe I have only one other suggestion, which is, simply, that I think the Council, or whatever Body is to take their place, should be invested with almost plenary powers to make alterations in the details of management.

1222. At present, they must resort to the Body from which they originated, that is, the four Inns of Court?—Yes.

1223. Do you think that the present division of the five Readers, on five different subjects, is appropriate and adequate, or would you suggest any further subject?—The only thing, in my opinion, wanting, is a Professorship of Medical Jurisprudence. With reference to this subject, it has occurred to me that an arrangement might very easily be

Herbert Broom, Esq.

20th July 1854.

made with some eminent Physician, to deliver a Course of Lectures on Anatomy, the Action of Poisons, and so forth,—those subjects which every man of liberal education ought to understand, and which it is extremely important for a Practitioner in Common Law to be acquainted with. I will just add, that I do not think such a Professor would be required to be always delivering Lectures throughout the whole of the Legal year. I think one Course would be all that would be wanting, a Course, of a dozen Lectures or so.

1224. Has it not been found, practically, that the greater part of the Reader's time is occupied?—Very nearly the whole, in my case.

1225. That was not so much anticipated at first, as experience has proved to be the case?—I should imagine not. That question would lead me to make one further remark; simply, that it has been a question in my mind, with reference to my own individual appointment, whether practice ought to be allowed in conjunction with it, because the duties are incompatible. That admits of demonstration, because it is impossible to attend at Westminster, or to go the Circuit, during the continuance of the Lectures; and this must always be so.

1226. On the other hand, there is great advantage, is there not, in securing gentlemen who have a practical knowledge of Law, as brought up to its last stage?—Yes, I think that is very important, certainly.

1227. Would there be any advantage in doubling the Lecturers, so that one Lecturer might take the same subject for two Terms, and the other for the other two Terms?—No, I do not think that would be possible. I do not think myself, that more Lecturers are wanting in the existing departments.

1228. Have you thought at all whether a Compulsory Examination would deter any of those Members from attending as Students, who now come to the Bar merely for the purpose of acting as County Magistrates?—It would be part of my plan, that the Examination for the Degree should not be at all severe. If so, I think that though it might deter some, it would not deter many from going to the Bar.

1229. You think that the Examination you propose for an ordinary Degree, within the scope of any ordinary capacity, would not be so severe as to deter anybody who had a tolerable knowledge of Law, from attending the Lectures and undergoing the Examination?—Certainly not.

1230. It has been suggested to the Commissioners, that the system of attending Lectures interferes with the attendance at the Chambers of a Pleader, or an Equity Draftsman, or a Conveyancer, as the case may be. Do you think that any practical inconvenience has resulted from that, since the new system was established?—I think there may have been some during the previous operation of the system. There could be none according to the plan which I have suggested; it would be merely necessary to postpone the attendance at Chambers till after the two years of attendance at Lectures. Occasionally the inconvenience alluded to may have been experienced, but I should say very seldom, judging from the applications for dispensation, and excuses made to me for Non-Attendance at Lectures.

1231. The excuses have not touched upon that difficulty?—Not much, only occasionally; and from that I infer that it has not been felt very onerous.

ADOLPHUS BACH, Esq., examined.

Adolphus Bach, Esq.

1232. You have for some time resided in England?—Yes; many years.

1233. You are yourself a Member of the Legal Profession in Germany?—I am. I have been a Law Student of the Univerisity of Leipsic for two years; but I was not a candidate for taking my Degree, in consequence of my resources having then been very slender.

1234. Are you acquainted with the course of study in Saxony?—Yes.

1235. Will you be kind enough to inform the Commissioners what course of proceeding is taken by a gentleman who wishes to become an Advocate?—In going to the University, he generally brings his certificates from the College where he in the first place has obtained his classical education, and he is then admitted as a Law Student. Legal education is only obtained in a University. Professors are specially appointed for lecturing on Law, but they themselves do not practise. The Student in the first half year generally begins with the Encyclopœdia of Law, being a general survey of the Law in all its branches, including Natural Law, Divine Law, the outline of the Civil or Roman Law, which is, in fact, the groundwork throughout all the later courses of Lectures in the University. The Student takes copious notes of every course of Lectures.

1236. Is there one Lecturer, or are there several Professors?—There are numerous Professors; generally, each Professor has his own subject; sometimes, however, he reads on two or more.

1237. A Student's year is six months?—Yes; the second Semestre, or half year, the Student hears the Institutes of Justinian, with the history of the Roman Law, or the antiquities of the Roman Law. He may also attend any other Lecture which suits his taste, but that is the general Course.

1238. What would be his third Semestre?—The third Semestre he begins the Pandects, and he is generally examined upon the Institutes. The Pandects take up nearly the

Adolphus Bach, Esq.

20th July 1854.

whole of his time; frequently they are read twice a day, in the morning and afternoon hours. The Pandects, with one or two other Lectures, as, for instance, the German Law, and the Hermenntics of the Roman Law, fill up the third Semestre. In the fourth Semestre, the Student hears either the Pandects again (many a Student likes to hear them twice), or he takes the Saxon Law, the Canon Law, and the Process, or the Law of Procedure, and any other separate branch of the Law, such as the Feudal Law, the Commercial Law, the Criminal Law, and so on. During the fourth or fifth Semestre the Student begins with what is called a Practicum: this is peculiar to the German Universities. After having gone through a Course on the Law of Procedure, the Student receives the whole case of an action already terminated; and as the Law Faculties of the German Universities are also Courts of Appeal or revision, they have a considerable number of cases long since decided at their disposal, with which they can provide Students; to whom is thus presented the framework of an action, from the beginning up to the last decision. The Student has then to work out a history of the same, and must "refer;" that is to say, he has to make a report on certain stages of the proceedings as laid before him.

1239. Like the French Repertoire?—Yes; somewhat similar to it.

1240. A sort of abridgment of all the procedure of the whole case, including the evidence?—Yes; he has of course to report on the evidence in the case.

1241. And he reports that to the Professor?—Yes; he writes down the whole case. In fact, he makes a full report, and gives his own opinion upon the subject.

1242. Is that acted upon?—Certainly not.

1243. Is there also a regular Reporter besides?—It is not upon cases which are to be decided, but upon those that have been decided already; old cases, they are.

1244. They are real cases, which have been determined?—Yes.

1245. When he has gone through his two years, does he take his Degree?—He takes his Degree when he leaves the University; he goes up for Examination first, and generally writes an Essay or Thesis, which he defends publicly, and upon which he takes his Degree if successful.

1246. What Degree does he take?—Doctor of both Laws.

1247. When he takes his Degree, it is not necessary that he should practise as a Barrister?—No; he cannot yet. His Degree does not entitle him to practise; if he wishes to do so, he has to undergo another Examination in the State where he intends to practise. The Examiners are generally the President or one of the Judges of the Court presiding, and two other Examiners, public officers of Legal Education; and upon this Examination, the canditate is then admitted to practise.

1248. Must he have a Degree before he can apply for that admissson?—As a general rule, in several parts of Germany, he must have obtained his Degree.

1249. What exceptions are made?—It is only in certain parts—in Austria, for instance—where it was not absolutely required to have a Degree, and where persons have practised for a long time, or have been Judges in the inferior Courts without a Degree. I must, however, beg to say, that in several parts of Germany a Degree is not absolutely necessary; as, for instance, in the kingdom of Wurtemberg.

1250. Would a Degree in any German University be accepted in another State?—Yes; in every part of Germany. However, in nearly all the larger States, such as in Prussia, or Austria, &c., which have their own Universities, those who wish to practise there, must follow their studies for a certain period in the University of the country.

1251. Would a Student at Leipsic be accepted in the Austrian States as an Advocate upon the certificate of that University?—Not alone; he must have studied also at one of the Austrian Universities.

1252. But not for so long a time?—No; he would have to undergo a new Examination in Austria.

1253. Would a single six months be sufficient?—I am not aware that there is any period prescribed in such a case; but he must have studied at the University of the country in which he wishes to practise, and he must undergo an Examination in the same country before some public authority.

1254. As a general rule, nobody can become a Barrister in Germany without having had a distinct education at a University?—No doubt; it is only at the Universities that a Legal Education can be obtained; it is not by practice. But then I must also state, that after having taken his Degree, and having undergone a second Examination, and having been admitted, it is generally the rule with young Advocates to pass some time in the office of a brother Advocate, in order to acquire practice.

1255. If he intends to practise, he usually places himself in the office of another Advocate?—Yes.

1256. Does he pay him a fee?—No; it is more an act of friendship.

1257. It is not a common practice to pay a fee?—No.

1258. How many years would a young Barrister spend in the office of a man in practice?—This depends altogether upon his own mental qualifications.

1259. Before he can be admitted as a Student at a University, he must have a certificate from his College or School?—Yes; it is by exhibiting these certificates that he is matriculated as a Student at the University.

1260. Is the Profession divided in Germany, as it is in this country, into Advocates

Adolphus Bach, Esq.

20th July 1854.

and Solicitors?—It is not; not throughout Germany; not even in those parts of Germany where the French Law prevails; although in France the Profession is divided to this day.

1261. The same people take all departments of practice; for instance, they would serve processes, and summon witnesses personally, and at the same time conduct a cause in Court?—Not quite so. The Court serves all processes by their own officers.

1262. What are the particular functions of an Attorney or Solicitor, as distinguished from a Barrister, in those countries where the offices are divided?—It is nearly the same as in this country. The Avoué has to collect the evidence and prepare the brief, except certain ministerial functions of the Court, with which he has nothing to do.

1263. Is there not also a class in Germany of Jurists who are consulted sometimes, and give opinions, who never practise as Advocates in Court?—No; not as a separate class of Professional gentlemen.

1264. The Professors, for instance, would never be consulted?—Sometimes they are consulted upon important cases; but these are rather upon Public or International questions.

1265. Would they be consulted by the Government?—The Government very rarely consults them. The system of the German Governments in their action upon Legal points is quite different from that of the English Government. I would certainly prefer the system pursued in this country, viz. that of the Government consulting, upon any difficult question or doubt, the Crown Lawyers, on cases laid before them, and placing, in fact, all the responsibility upon the Law officers of the Crown. That is not the case in Germany. The Minister of Justice is the Crown Advocate; he acts both as Adviser and Minister, and in so far, I consider the system in this country far more preferable. The Crown Lawyers are neither Ministers of State, nor have they any governing power.

1266. Is there never a reference from the Courts to the Professors of the Universities, as advisers of the Court in difficult cases on difficult points of Law, for their opinion, and that opinion to be transmitted to the Court?—It is not an opinion. It is a decision. The Law Faculties in the Universities of Germany act as Courts of Appeal or Revision, in the last instance. Their power has, however, been unfortunately curtailed in latter years. In consequence of political considerations, the antonomy and the jurisdiction of the Universities are now much restricted.

1267. It is something like the Parliaments in France; they formed a body which gave an opinion, which was, in fact, a decision?—Certainly; but the Parliaments of France were, at the same time, a political power: they had to register the Laws, whereas the Law Faculties in the German Universities, as deciding cases brought before them on appeal, act as a judicial body only, and no more. They have no political attributes whatever, except of sending here and there a Member of their own body to the Chambers.

1268. Are cases argued before them?—Not argued. All the proceedings, in writing, are laid before them on revision, and they decide.

1269. In the Courts below, it is not all in writing, is it?—No. The proceedings are also oral.

1270. And there is pleading there?—Yes.

1271. Do they plead before the Professors?—Not before the Professors. The Law Faculty of the University, composed of the Law Professors, have only to decide upon the evidence, Counsels' arguments, and the decisions of the Courts below, laid before them in writing.

1272. This system, of which you have been kind enough to inform the Commissioners, is almost general through Germany, with some modifications?—Not quite general, but it prevails in many parts of Germany.

1273. Is there any control over the moral conduct of the Members of the Profession, supposing a man conducts himself unfortunately in a manner discreditable to an Advocate?—The control lies with the Court. Hitherto there have been no Chambers of Advocates, as there is in France, for instance, or as exists in this country in the Inns of Court. In Germany the control is entirely with the Judicial Authorities, and the Courts do sometimes apply their power in a very severe manner. An Advocate having, perhaps, expressed himself somewhat disrespectfully, in the heat of the moment, may run the risk of being suspended from practice. The system of recruiting, if I may apply the word, the Judges from the body of Advocates, as is the case in this country and in France, does unfortunately not prevail to any extent in Germany. Those who devote themselves to the office of a Judge do so from the beginning of their career. The Judges are rarely taken from the body of Advocates.

1274. If a gentleman, having taken his Degree, wishes to become a Judge, what course does he pursue?—He applies to the Government to be permitted to be admitted as a candidate for the Judicial Office, and when admitted, he begins doing the work which clerks in a court of justice do in this country. Gradually he is raised to the post of a Referendary, somewhat similar to that of a Master. He makes reports. From that he becomes an Assessor to the Court; he is then with the Judges. He hears all the pleadings, and is present at the deliberations and decisions of the Judges; but he has no vote until he is himself raised to the dignity of a Judge.

1275. So that he is from the very first, in fact, distinct from the other members of the Profession?—Yes, and this system is in many respects far from being a good one. The

Adolphus Bach, Esq.

20th July 1854.

people of Germany would certainly derive much greater benefit were the Judges gradually appointed from among the Profession at the Bar.

1276. Is there any distinction in Germany between Common Law and Equity?—No.

1277. Not even in countries like Prussia, which have a Common Law of their own?—No; all cases are conducted on one principle of Legal probity and procedure.

1278. Are the several Codes of Law, by which the decisions of the Courts of Law are guided, the same through that great country?—No. There is Prussian Law, the Austrian Law, the Saxon Law, the Bavarian Law, and so on. Almost each Sovereignty in Germany has its own laws, which renders the study of the Private Law of Germany extremely difficult.

1279. Do the gentlemen who practise as Advocates generally divide themselves at all with reference to Criminal Law?—No.

1280. Is there any Professor of Medical Jurisprudence in Germany?—Yes, we are bound to hear Medical Jurisprudence. It is part of the course of a Student's Legal Education. Medical Jurisprudence, in fact, owes its origin to Germany.

1281. How long does that Course take?—From four to six months; one Semestre.

1282. Is the Professor of Medical Jurisprudence usually a person belonging to the Medical or Legal Profession?—More from the Legal Profession.

1283. Does he assist in the investigation of Crimes?—At a board of inquest, or at trial, Medical men generally are called in, not the Professor.

1284. In the case of an Appeal in a Criminal Case, there would be an Appeal to some Court, which Court is composed of the Professors of the University, and a Professor of the University would be one of the Judges?—Not in Criminal cases. The Appeal is confined to the Court of Appeal of the State in which the offence is committed.

1285. You have known the system in this country a long time; has it ever occurred to your mind that we could make any improvements in our system of Legal Education?—The systems of Legal Education in Germany and in this country are so entirely different, that I should not venture to propose any improvements, though the Legal Education of the Student is certainly open to improvement, and is indeed very greatly improving in this country. Altogether I should very much prefer the whole Law system in this country to that of Germany. Unfortunately, the Roman Law, which is founded upon an extinct social system, prevails too much with us, except in Prussia and Austria; it is too much the foundation of all our Pleadings and Proceedings. The consequence is, that the nation at large does not understand the Law. For instance, a decree given, full of Roman technicalities, can rarely be understood by the party, even of the most cultivated mind, unless he be a Lawyer himself.

1286. All your Law terms are in Latin?—Yes.

1287. Do not all your proceedings go upon very technical grounds?—Yes; upon the law and forms of actions, as laid down by the great Roman Jurists, but not understood by the people of Germany.

1288. Is not there a fixed rule as to the number of witnesses in certain cases?—Yes, one witness forms but half evidence, according to the Civil Law.

1289. Is oral testimony becoming more common in Germany?—Yes, much more common. Since the events in the year 1848, the Governments at last became aware how sadly behind they were in Law reforms, and great reforms have already taken place, especially in Criminal Proceedings.

1290. Has Professor Feuerbach contributed to those reforms?—In a degree; Professor Feuerbach flourished long before; he was rather a theoretical Lawyer.

1291. Do you think that that peculiar sort of education which you have been describing has at all conduced to that mode of deciding cases in Germany which you do not approve of?—Not that Legal Education itself; because the Law presents such a wide field of study, that a period of three years is not too much for a Student to become acquainted with all the component parts of the Law. But it is the great importance which is attached to the Roman Law of which I do not approve; it is too technical, and too much stress is laid upon it. It is, after all, operating upon a dead body; there is no vitality, and the vivifying spirit of the living Law is gone. That is a great misfortune. A Student, in order to do credit to himself, ought to hear the Pandects at least twice over. Now the Pandects are a most stupendous work, replete with Legal wisdom, it is true, but putting the cultivation of Domestic Jurisprudence, arising out of German Law, quite in the background.

1292. The principles of the Roman Law are pretty well the principles of all our modern Law. But you stated that the antiquities of Roman Law are read by the Student, and also the old forms of action of the Roman Law are still adhered to, and that you think over-technical?—Certainly; but not the antiquities; they are merely historical.

1293. Is the remuneration of the Advocate an honorarium in Germany, or is it a fixed charge?—It is fixed by Law. His services are fixed as the services of an an Attorney are in this country.

1294. Is that subject to taxation?—Yes, certainly; the costs are generally taxed, but notwithstanding the charge being fixed by Law, in cases of importance there is always an honorarium given.

1295. Is it recoverable by Law; could an Advocate, if he wished it, bring an action?—Certainly not; not for the honorarium.

Adolphus Bac Esq.

20th July 185

1296. But he could for that which is fixed ?—Yes.

1297. Do your observations apply to Rhenish Prussia, where the Code Napoléon prevails ?—To a great degree, with the exception of the difference in the Law itself.

1298. But the Roman Law does not prevail so much there ?—No.

1299. How is it, for instance, at Bonn ?—At Bonn, being a town in the Rhenish provinces, the French Law prevails.

W. L. Birkbec Esq.

WILLIAM LLOYD BIRKBECK, Esq., examined.

1300. You are the Reader on Equity, under the new system of Education ?—Yes.

1301. You have been so from the commencement ?—Yes.

1302. Can you state to the Commissioners how many Students, on the average, you have had attending your Lectures ?—I have had between seventy and eighty, on an average.

1303. That attendance is compulsory, but with the power of selecting two particular courses of Lectures out of the five courses given ?—Yes.

1304. How many attend, on the average, at the Private Classes ?—There are now constantly attending at my class, four only; there have been five or six during the present Term. In some Terms the attendance has been larger.

1305. To what do you attribute the small attendance at the Private Classes of the Readers ?—I think most of the Students who are seriously following the Law, are reading in the Chambers of Special Pleaders, Conveyancers, or Equity Draftsmen.

1306. That would particularly tell, therefore, upon the Classes of the Readers of Common Law, Conveyancing, and Equity ?—Yes.

1307. You think they are attending either on the Conveyancers, Special Pleaders, or Equity Draftsmen ?—I think that is the case with a great many of them.

1308. Have you formed any opinion upon the question, as to whether or not a compulsory Examination would be desirable ?—I think it would be desirable.

1309. Mr. Broom has stated to the Commissioners, that he thinks about one half of the Students attending the compulsory Lecture may be seen taking full notes; what is your experience in that respect ?—From the report of a person attending at my Lectures, I have come to the same result. I should think that about one half of the Students attending, take notes.

1310. With regard to those who do not subject themselves to Examination, and do not take notes at Lectures, do you conceive that any very useful result is arrived at by compulsory attendance, there being no Examination ?—I do not.

1311. Would you recommend more than one Examination at the close of the period when a person is called to the Bar, or annual Examinations ?—I think it would be better to have annual Examinations.

1312. You are decidedly of opinion, that a compulsory Examination would be desirable ?—I think there should be a compulsory Examination at the close of the Educational Course.

1313. Before a person is called to the Bar ?—Yes.

1314. Do you conceive that, either by the present system or any improved one, a sufficient quantity of information could be communicated to Students, to supersede the necessity of their attending at Chambers ?—Yes, enough to supersede that necessity, but not so much as to render it desirable that the attendance should be entirely dispensed with. It is a general, and I believe, a well-grounded opinion that, in most instances, a Student who has received no previous instruction, derives little advantage from the first six months of his attendance at Chambers; that is to say, he must devote at least that period to the study of Law before he can usefully employ himself in its application. This essential preliminary knowledge can, I believe, be acquired much more readily under the new system than it can be obtained either in Chambers, or by the unassisted efforts of the Student. I have no doubt that two years' attendance at Lectures and Classes, with one year given to practice in Chambers, would form a much better Lawyer than three years spent in Chambers, according to the old system. But any one commencing his career at the Bar without that practical knowledge which can be obtained in Chambers alone, would certainly find himself at considerable disadvantage.

1315. Do you concur with the other Readers in thinking that the Examinations have improved with reference to those who have come forward voluntarily to be examined ?—Very decidedly. I could produce the marks which have been given at these Examinations, which would show it in a most remarkable manner.

1316. Does that confirm your idea that the system of Examination is useful ?—Entirely.

1317. The candidates have been very few, hitherto ?—About eight or nine, I believe, on the average.

1318. Do you think that any additional stimulus, in the shape of further rewards, either by additional Studentships, or exemption from Terms, or the like, would increase the number ?—I have no doubt of it.

1319. If you had a compulsory Examination, would you still have a separate Examination for Honours ?—I believe it might be better to have one Examination for Honours, and another for the Pass, or certificate of fitness to be called to the Bar.

W. L. Birkbeck, Esq.

20th July 1854.

1320. You mean analogous to the Examinations for Honours, and a Degree at the Universities?—Yes; but I think the two Examinations might be combined.

1321. Easy papers might be set, which all would be required to answer, and which might be sufficient for those to answer who were not going up for Honours?—Yes?—Or there might, as at present; be one set of Examination papers containing questions of different degrees of difficulty; and those who were not going up for Honours might be passed, although they answered a part of the paper only and obtained fewer marks than ought to be considered a title to Honours.

1322. Do you think it would be advisable to have any system in the Universities in combination with the system that is now pursued at the Inns of Court, by which some degree of Legal information could be acquired at the Universities?—I think it would.

1323. To what extent do you think it desirable that young men should be informed at the University upon Law subjects?—I think that those who are not particularly disposed to follow either the principal course of study at the Universities, classical or mathematical, would do well, if they have chosen the Bar as their Profession, or are inclined for Legal pursuits, or are likely to fill stations in which a knowledge of Law will be useful, to devote themselves, when they have completed perhaps half of their University career, to Legal studies.

1324. Would you have a special Examination on Law subjects, which should entitle a party to a Degree at Cambridge or Oxford?—Yes. As will be the case at Cambridge in 1857.

1325. You think that an improvement?—Yes; an important improvement.

1326. You would not supersede Classical attainments altogether?—By no means; some attention to them will be secured by a previous Examination.

1327. Is that study of Law that you say will come into operation in 1857, to be for a Degree?—Yes, for the Degree of Bachelor of Law, which will be in all respects equivalent to the Degree of Bachelor of Arts.

1328. Would you recommend any Examination of gentlemen in general information, before they are admitted as Students?—I think it would be desirable.

1329. To what extent would you carry it; should it be in both the learned languages, or one?—I think one, probably, would be sufficient, Latin.

1330. Are you at all apprehensive that any increased Examinations would deter Students from coming to the Bar, who now come; all persons of the class of country gentlemen, and others who do not intend to practise?—I do not think that they are a very numerous class at present; and I should therefore think that few would be deterred. As far as I have had an opportunity of observing, most of those who come to the Bar have the object, either of practising, or of obtaining some appointment which can be given to Barristers only.

1331. Have you heard any complaints from Students or others of the interference of the present system with the attendance at Chambers?—Yes.

1332. Are they Students who have made those complaints?—Yes; they find it a considerable interruption to attend the Lectures in the middle of the day, when they are perhaps engaged upon a Draft.

1333. They might avoid the attendance at Lectures by a voluntary Examination?—Yes.

1334. Can you suggest any improvements upon the present system?—I think that the period of attendance at Lectures might be increased with advantage. At present, a year is the time in which a Student is expected to attend to five subjects, each very extensive and important.

1335. He may now attend for a longer period if he likes?—Yes; but it is now not very usual to do so. There is a disposition on the part of Students to undertake too many subjects at once. It would be better that the authorized Course should extend over two years at least.

1336. Now, one year is sufficient?—Yes.

1337. There are two Courses which must be attended in one year?—Yes; that is the present system; but there are five courses going on, and five subjects of Examination. I think that if the time were extended to two years, then attendance on three courses of Lectures might be required with advantage; and Lectures on Jurisprudence and Legal History might be made to precede the more practical Courses.

1338. In fact, you might insist upon three or four Courses in that way?—Yes; but the principal advantage I anticipate from an extension of the time of attendance at Lectures, is that it will afford an opportunity for laying down an order of study. I would add, that it appears desirable there should be two Pass Examinations in the year, in order that if a Student is unable to pass at one, he may have an opportunity of coming up again at the end of six months. Another point I would mention is, that it would be a great convenience to Students if they had access to the books in the Libraries during the evening.

1339. Do you recommend a special Library for the Students?—If they could obtain access to the Libraries of one of the Inns of Court in the evening, that is all that could be desired.

1340. Is there any obstacle to the Students from any one of the Societies, obtaining access to the Library of another?—I believe there is.

1341. You think that having the Libraries open in the evening would be an object?—Yes.

W. L. Birkbeck, Esq.

20th July 1854

1342. They are now closed at four o'clock?—Yes. The Students complain that they are unable to refer to cases; they have not the books themselves; they are occupied in the morning, and cannot attend the Libraries. I would also suggest that it might be advantageous if dinners in Hall were provided for Students during the whole of the Educational Terms; and the third Educational Term is found to be rather too long.

1343. Do you concur with the suggestions which have been made by Dr. Maine?—I have, I believe, in the answers already given, stated the extent to which I concur in them. There is one exception which I would make. I think Dr. Maine proposed a year of Silence, after the Call. It seems to me, that it would be difficult to enforce such an arrangement; but I see no objection to it besides this practical difficulty.

1344. His object was that they shall have an opportunity of reading in Chambers after they had finished their courses as Students. That could be attained, could it not, by saying that nobody should be called till a year after he had passed his Examination?—Yes.

1345. Do you think that any additional Lectureship would be desirable, besides the subjects already mapped out?—Yes; the subjects of Medical Jurisprudence and Modern Civil Law might probably be added with advantage.

1346. You find that the Students are not well informed at all upon the subject of Medical Jurisprudence?—I should think they are not; but there have been no Examinations on the subject.

1347. As far as your experience has gone, do you think that the new system has been beneficial?—I have not the slightest doubt that there is a much greater amount of study upon the part of those who are preparing for the Bar, and that it is conducted in a more systematic manner than was the case previously to the establishment of the present system.

1348. Do you know at all whether the Students who come to the Lectures get into the habit of conversing upon Legal points with each other?—I believe they do.

1349. That is an advantage, is it not; the sort of atmosphere of Law that they are induced to live in?—I believe it is impossible to fix a subject of such extent as Law upon their memory without that sort of repetition which is induced by conversation.

1350. Have you considered at all the question, whether a Faculty of Law would be desirable for the purpose of conferring Degrees in London?—I think it would be desirable in some respects.

1351. A Chartered Body, formed out of the four Inns of Court?—Yes; in that manner a Degree might be obtained without incurring the expense of a Call to the Bar, and the Examination would have all the advantage of determining (as far as it can be determined without an actual trial) the fitness of a candidate for a Legal office.

1352. You think that a Degree might be conferred which should be in itself a passport to the Bar, subject to additional payments upon actual Call?—Yes; and a Degree might be made the qualification for certain offices, which are now given to Barristers only. I do not propose, however, that the Degree should be conferred upon Examination merely, without attendance at Lectures; but I think the attendance required might be shortened, in favour of those who have taken a Bachelor of Laws Degree at Cambridge or any other University, where an efficient system of Legal Education may be introduced.

1353. Curtailing, for instance, all attendance at Lectures?—I think that a part only of the attendance at the Lectures given in the Inns of Court should be curtailed. The Students should be required to live for some months at least in the "Legal atmosphere."

1354. That proceeds upon the assumption that there is to be a compulsory Examination at the end?—Yes; at any rate for the Degree.

Adjourned to Tuesday next, at 4 o'clock.

Tuesday, 25th July 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

REGINALD WALPOLE, Esq., examined.

Reginald Walpole, Esq.

25th July 1854

1355. You have been the Reader on Conveyancing since the first institution of the new system of Legal Education?—Yes.

1356. What attendance have you, upon the average, at the Public Lecture?—An average attendance of eighty Students. A few Barristers also attend, but the number I am unable to state.

1357. At the Private Classes, what number attend?—The number has varied from thirty to five; but the average attendance shows a decided decrease.

1358. Do you conceive that, through the medium of the Public Lecture and the Private Class, those desirous of availing themselves of the full benefit that they could derive from such means, would avoid the necessity of attending in Chambers?—Certainly not; for the purpose of acquiring a practical knowledge of the Law, one year's attendance in Chambers, at the least, is indispensable.

1359. Do you think it would be still very desirable that they should attend in Chambers?—Yes, I do.

1360. Have you found any complaint made by any of the pupils, or any gentlemen of

Reginald Walpole, Esq.

25th July 1854.

the Bar, as to the attendance at Lectures interfering with the attendance at Chambers?—I have not heard of any complaint, either from Students or Barristers; but excuses have been made by Students for their absence fron Lecture on account of their having been engaged in Chambers. I think that this collision between the Public Lectures and attendance in Chambers might be avoided to a great extent, without interfering with a system of Legal Education. A regulation to the effect that, for the space of one year immediately preceding the Call to the Bar, Students should be exempted from attendance at the Public Lectures, would, I conceive, be an improvement, and would be appreciated by the Students.

1361. Do you concur with what has been stated by other gentlemen with reference to the Examinations, namely, that each succeeding Examination has shown considerably advanced proficiency on the part of the Students?—Yes, that has been the case in my branch also; and I also wish to add, that those Students who have shown the greatest proficiency in the Examinations had been previously constant attendants at some one or more of the Public Lectures and Private Classes.

1362. What is your judgment with reference to the propriety of making the Examinations compulsory upon candidates for the Bar?—I am a great advocate for a compulsory Examination.

1363. Do you conceive that the Lectures can be found to work beneficially without some such system, the parties knowing that they are afterwards to be examined upon them?—A scheme of education for the Bar connected with Public Lectures is, I conceive, quite incomplete without compulsory Examination as part of the system.

1364. Would you distinguish the parties to be subjected to Examination into two classes, those who are candidates for Honours, and those intending merely to pass?—No; my opinion is in favour of two distinct Examinations; a *compulsory* Examination for those Students who intend merely to pass, and an Examination for Honours; the two Examinations to take place at the same period of the year, the Honour Examination to have precedence in point of time, with a sufficient interval between the two, so as to allow a Student who has failed in the first Examination to go in for the second.

1365. Would you make the compulsory Examination take place once for all, or would you have an annual Examination?—I would have the compulsory Examination take place but once, to be open to all Students of not less than two years' standing. There would then be an interval of one year between the Examination and the Call to the Bar, during which period, in accordance with the suggestion contained in my answer to Question 1361, a Student would have the opportunity of attending Chambers free from the Public Lectures.

1366. Dr. Maine has intimated the same view. You, in fact, would say that no person should be called to the Bar until a year after he had passed his Examination?—Yes; it would then give him one clear year to attend at Chambers, to read with an Equity Draftsman or a Conveyancer.

1367. With regard to those attending the Lectures, as far as you can form a judgment, can you say at all, what proportion of the Students appear to be taking any notes, or otherwise attending to the Lecture?—I should say one half.

1368. You think that about one half seem to be deriving benefit from the Lecture?—I think so, speaking from personal observation.

1369. What is the motive of the other non-attending moiety coming to the Lecture?—Simply their Call to the Bar.

1370. Do you think that there would be any advantage, or otherwise, in having an Examination of gentlemen on general subjects, or the elements of Law, preparatory to their being admitted as Students?—I do not at present see the object of it.

1371. The object is to ascertain whether, before a gentleman is admitted as a Student, he has had the elements of a liberal education?—No, I do not see the necessity of it. The compulsory Examination, after two years' preparatory study, would, I conceive, be a far superior test of the necessary qualifications for the Bar.

1372. Would there be any advantage in having a general Faculty of Law in the Metropolis, which should be a central body elected from the different Inns of Court, which would answer the purpose of a University, in order that Examinations might be passed and Degrees conferred by them?—Yes; I have no doubt it would be advantageous.

1373. Might not the Degrees in such a case be conferred, leaving it optional to the party afterwards, whether he wished to come to the Bar at once, but making it a passport to the Bar, if he should be so minded, assuming that he has passed through the Examinations?—Yes; it being clearly understood that he is not to practise till he is Called. The plan suggested would, I think, be a great inducement to some persons, who would otherwise stop away.

1374. Do you think that country gentlemen about to act as Magistrates might be gratified by having a Degree in Law conferred upon them by such Faculty?—Yes; I think they would.

1375. Are there any suggestions that you would wish to make to the Commissioners, with regard to an improvement upon the present system of Legal Education?—My principal wish is to see a compulsory Examination carried out. I think that any scheme of Legal Education would be imperfect without it. It would also enforce upon Students the necessity of attending the Private Classes, of the advantages of which I do not think they are at present sufficiently aware; and with reference to the Private Classes, I am desirous

Reginald Walpole, Esq.

25th July 1854.

of stating that this mode of tuition, though not so well adapted to the improvement of Students who have already arrived at a certain degree of proficiency in Legal attainments, must, I think, ultimately prove of great value to those who are only commencing their course of Legal study. To them it will render important assistance, in enabling them to acquire a more thorough insight into the leading principles of Law, as a science, and the application of those principles to the practice of Conveyancing, in a shorter time and with far less labour than they could possibly hope for in the Chambers of an eminent Counsel, where they would be perplexed with all the varieties of a complicated business; but, having been properly prepared, they would, when in Chambers, acquire the practical knowledge of the Law with comparative ease; and I am strongly of opinion, that in the event of a compulsory Examination being established, the number of Students in attendance on the Private Classes will be materially increased, and the benefits to be derived from such an extension of the present system proportionally acknowledged.

1376. Would you suggest any increased number of Readers with reference to the subjects upon which Students for the Bar should be educated; Medical Jurisprudence, for instance?—The Lectures on such a subject would be, no doubt, interesting and well attended, but I think that that is a subject, the knowledge of which can only be acquired by men at a later period of life, when they are better acquainted with the rules of evidence than they would be when attending the Lecture as Students.

1377. Have you any other proposition to make to the Commissioners?—With respect to any new Readerships, I think one would be advantageous, and that is, a Readership of Modern Civil Law.

1378. What do you mean by Modern Civil Law?—The Law as carried out in the Ecclesiastical Courts.

1379. As contrasted with the Roman Civil Law?—Yes; I think it would be a distinct Chair from that occupied by Dr. Maine.

1380. That is, principally on the Law of Marriage?—Yes; and it would include the Law in the Admiralty Courts, and the Law of Divorce.

1381. It would include the whole system of Law which is now usually the peculiar study of Advocates in Doctors' Commons?—Yes.

1382. You would include the Admiralty Court?—Yes.

1383. Have you ever considered the subject of Moots, or discussions of subjects by the Students; do you think that would be an advantageous addition to the present system of education?—I cannot speak from experience, but I conceive it would be advantageous, especially with reference to Common Law, Equity, and Real Property. I think with respect to the Pass Examinations, there should be two in the year, if they were ever carried out.

1384. You mean two periods of Examination, at which Students should be allowed to pass?—Yes; otherwise some Students might be of nearly four years' standing before they could be called to the Bar.

1385. And two for Honours?—Yes, for this reason; because some Students would obtain an undue advantage over others, according to the date of their entry, and the length of time over which their studies would extend, if there was but one Examination.

1386. That might be obviated by having the entry at the same time in the year?—I think that would impose too great a restriction upon Students desirous of entering for the Bar and competing for Honours. One man might thus obtain an advantage of nearly twelve months' reading over another.

1387. Have you been able to form an opinion of the Students generally, whether there is an apparently increased disposition on their parts, independently of those who present themselves to be examined for Honours, to avail themselves of the advantages of the Lectures?—My only gauge of that is the Private Classes, and they are decreasing.

In addition to the evidence already given, I am desirous of making the following suggestions, in the event of any alterations being made in the present system of Legal Education. Under the present system, each Student is required, in order to qualify himself for a Call to the Bar, to attend two out of the five courses of Lectures annually delivered upon different branches of the Law, the selection of subjects being left to the Student. I would suggest that the number of courses to be attended be increased to three; that the Student be required to attend two in his first year; that one of these two courses be either on Constitutional Law or on Jurisprudence, the other at the option of the Student; that in the second year the Student be required to attend a course on Common Law, Equity, or Real Property, at his option; that a bonâ fide attendance throughout the three courses be a necessary preliminary to the Pass Examination. This Examination will then conclude the whole course of Public Instruction, and when passed will entitle the Student to a Degree in Law (according to the suggestion in Questions 1373, 1374,) and, at the expiration of one year from the Examination, to the privilege of practising upon being called to the Bar. And I would also suggest, that in the event of a Pass Examination being instituted, the books or portions of books and subjects forming the basis of the Examination be decided on once for all by the Council on Legal Education or the Faculty of Law, so as to lay before the Student, from the date of his entry, a line of reading for his future guidance.

W. D. Lewis, Esq.

25th July 1854.

WILLIAM DAVID LEWIS, Esq., examined.

1388. You were the Reader at Gray's Inn before the present system of Legal Education was established?—Yes; before any compulsory attendance at the Lectures was required. There had been suggestions at a meeting of the Benchers of the Inns previously to my being appointed, and I happen to have with me a paper dated the 11th of February 1846, containing Mr. Bethell's suggestions to the Inns of Court. I think it was under some agreement of the Inns of Court pursuant to those suggestions, that I was appointed; but I cannot trace the immediate connexion. My appointment was on the 26th of May 1847.

1389. Do you recollect that the several Inns of Court did each of them appoint a Lecturer to give lectures in Law, but the attendance upon which was voluntary?—Yes; that was the case. In pursuance of the plan which, as I believe, Mr. Bethell suggested, Mr. Spence was appointed the Lecturer of Lincoln's Inn, on Equity; Mr. Long, on Civil Law, at the Middle Temple; Mr. Hall, on Common Law, at the Inner Temple, and myself on Real Property and Conveyancing, Devises and Bequests, at Gray's Inn.

1390. Did that system continue up to the time of the appointment of the Council of Legal Education?—All the lectures did not continue till that time.

1391. You were the last that continued to lecture?—Yes, I held office five years. I was elected for three years, in May 1847, and when that term of office was out, the Benchers of Gray's Inn were good enough to re-elect me for another term of three years. In January 1852, I had reason to suppose that I might be taking too much labour upon myself, my health not being very certain at that time, I therefore requested leave to retire at the end of the current year, which the Benchers were good enough to accede to, and I retired in the month of June following.

1392. The attendance then was voluntary?—Yes; entirely.

1393. What was the attendance?—The average attendance was about sixty. Will the Commissioners allow me to mention that the announcement of the Benchers of Gray's Inn, pursuant to which I offered myself a candidate for the Lecturership, is dated the 24th of November 1846, and it mentions, among other things, that "the Benchers are desirous "that, in addition to the Lectures, some further means should be adopted to secure the "attention and to ascertain the proficiency of the Students. The discussion of some "appointed subjects, in which the Students should be invited to join, subject to proper "regulations, opportunities afforded to Students of stating and of obtaining from the Lec-"turer the solution of difficulties, and Examinations in the subjects of the previous Lectures "and discussions, suggest themselves as means by the judicious application of which the end "in view may be attained."

1394. Was that a part of your instructions?—It was a part of the notice, in pursuance of which I became a candidate. The Benchers elected me on the 26th of May 1847. I did not begin to lecture till the month of November following; I delivered an inaugural address on the 4th of November, and carrying out the Bencher's plan, I ventured to establish, conjointly with the Lectures, Mootings on the discussion of cases such as are mentioned in the paper I have just read, with fortnightly Examinations upon the subjects of the Lectures, and also an annual Examination for Honours. The latter, I obtained the sanction of the Benchers to, as I will show. Thus we established a scheme of Lectures, Mootings, and Examinations; the Examinations being of two sorts, the one to show that the Students understood the Lectures, and the other being to enable them to indulge any wish they might have of showing that they were competent for the duties of their Profession.

1395. At the close of the year, you gave to those who wished to distinguish themselves an opportunity of being examined upon the subjects of your Lectures?—I endeavoured to see that they understood the whole of the Law of Property, and every subject fairly connected with it. I went, therefore, of course, a little into Equity and Common Law. The Mootings were held once a fortnight.

1396. What course did you pursue with respect to the Mootings; did you give the Students an imaginary case, or did you give them a point of Law?—We generally took such cases as might occur in practice, putting the letters A. and B. instead of the names; such, for instance, as A. devises to B. upon certain terms.

1397. Not as plaintiffs or defendants in a supposed action, but a case in the interest of both parties?—I adopted both modes. Sometimes I named parties, and requested individuals to conduct the cases of the respective parties; at other times I gave a case and asked the gentlemen to give their views; one was advocacy, and the other was offering opinions. The object being to give the Students an opportunity of stating their views in a short way, I limited them in point of time.

1398. Were those Mootings numerously attended?—They excited great interest, and were evidently liked by the Students.

1399. The attendance was all voluntary?—Yes. In the annual award, those of the Benchers who were kind enough to act with me as Examiners took into consideration the proficiency exhibited in the Mootings as one of the elements for determining the degree of attainment.

1400. Did you lay down any rules by which, in case of non-attendance at particular times, you excluded the Students from attendance at other times?—The only rule was a fair bonâ fide attendance. There was no technical or rigid rule at all. With regard to the annual examinations for Honours, I should state, that I made a Report to the Benchers

W. D. Lewis, Esq

25th July 1854.

of Gray's Inn, suggesting what I thought was desirable on that head, and they made a formal Resolution at their Bench, which I have here.

1401. In what year was that?—It was the 26th of January 1848; that was shortly after I commenced. The Report and Resolution are in these words:—"The Lecturer on "the Law of Real Property, &c., begs to report to the Treasurer and Masters of the Bench "of Gray's Inn, that he proposes there should be a voluntary Examination for Honours in "the English Laws of Real Property, in the Hall of Gray's Inn, on some day in Trinity "Term next. That all Students for the Bar should be qualified to stand on this occasion "who join regularly in the ordinary Lecture Examinations, Mootings, and the Exercises "which take place in Gray's Inn Hall between the months of January and June. That "the position of the successful candidates should be regulated by the results of the Exami-"nation on the 7th June, in connexion with those of the ordinary Exercises before men-"tioned. And that the names of those Students only who succeed in obtaining places in "the Class List should be made public, so that those who do not think proper to become "candidates, or who do not succeed, may not be prejudiced." "Resolved, That the same "be approved of; and it is ordered, that the Steward do, by letter to the Lecturer, acknow-"ledge the receipt thereof, and communicate to him the Resolution of the Bench thereon."

1402. With regard to the Honours, they simply consisted in the classification of the Students; you had no reward, had you?—Yes, there was, after the first year, as I will presently mention. We adopted a form of Certificate, which was written out on vellum or parchment, and ornamented with the Seal of the Inn, and had generally the form and appearance of a Diploma. There were generally three Benchers who were kind enough to take upon themselves the trouble of acting as Examiners for Honours. There were oral and written Examinations; we had two days, one for the oral and the other for the written Examination. Generally the Examination for Honours took place in June. The Examiners signed the Certificate, and I countersigned it. Feeling an interest in my office, I also, after the first year, provided out of my salary a prize, consisting in each year of a set of Vesey's Reports, which I gave to the first gentleman on the list; and the merit was such, that I was always able to give the prize with great satisfaction. I found that the gentleman who was first was not merely first relatively, but was really entitled to the prize on account of the real merit of his papers and Exercises.

1403. Did you happen to find that the answers of the successful candidates improved at each successive Examination?—I cannot say that I did. Obviously, the Students who came were such only as might be prompted by a desire of self-improvement, or by a sense of their own interest, and they were therefore, in fact, a select body, and I do not know that any considerable difference was observable in the standard of attainment of different years.

1404. Had you a system of marks; did you award marks for your own private purpose?—We had a system of marking our own estimate of the papers, but we all proceeded independently, and compared the results in the end.

1405. Were the marks of the successful man in one year higher than the marks of the successful man in the preceding year?—No; I cannot say that I observed any progressive increase of merit.

1406. How many usually came to your annual Examination?—Not more than thirteen; I think that was about the average, and about seven were classed. I beg further to observe, that the Benchers were good enough to attach a fee to the admission to the Lectures when I first entered upon my duties, but feeling a great interest in the design of the Benchers, and valuing my Professorship chiefly for the opportunities it afforded of investigating the science of Law, I took their leave to remit that fee, and from the beginning of the second year, that is, November 1848, to the end of the term of my office, the admission was gratuitous.

1407. Was there an increase of attendance after the remission of the fee?—I think there was, though not considerable.

1408. What was the fee?—A guinea the course. There were two courses in each year.

1409. The Students came from all the Inns?—Yes; and it is a remarkable fact, that those who obtained the Honours were scarcely any of them Members of Gray's Inn.

1410. You did not find much difference with respect to the attendance, whether there was a fee or not?—Not much. It was quite clear that it was the hope of benefit that led the Students to come.

1411. Are there any other facts connected with your appointment which you would wish to state to the Commissioners?—The other Lecturers, Mr. Spence, Mr. Long, and Mr. Hall, joined with me in Trinity Term, 1848, in making a representation to the Benchers of the several Inns of Court, much to the same effect as what has since been done. This is a copy of the representation:—"The undersigned, being impressed with "the conviction, confirmed by their experience as far as it extends, that the system and "practice of English Law, concurrently with general Jurisprudence, may, with advantage "to all Students for the Bar, form the subjects of Public Lectures regularly attended by "them, take leave respectfully to represent to the Benchers of the four Honourable "Societies, that attendance, to some reasonable extent, upon the Law Lectures which are "now being delivered in the Halls of the several Inns, and under their sanction, might "usefully become for the future, part of the qualification to be required in candidates for the "Degree of Barrister. The undersigned desire further to express their opinion, that the "efficiency of the Professorships which have recently been instituted is not adequately

W. D. Lewis, Esq.
25th July 1854.

"secured without the public sanction of the Benchers of the Inns of Court to some system "of voluntary Examinations, by means of which successful application to the studies which "may properly be required in Students for the Bar may be duly recognized, and the com- "petition of the Students in such Exercises encouraged."

1412. Can you make any suggestion to the Commissioners, with reference to the improvement of the state of things as it at present exists, with regard to Legal Education?—First, I would venture to give my opinion as to whether Lectures are useful, and whether the Law is adapted to oral exposition in the character of the science. I should upon this point state my most complete and entire conviction, that it is capable of being made most usefully and advantageously to the Students the subject of that form of instruction without, I may almost say, any limit, as completely as any other subject of science. I entered upon my office, however, with no predisposition towards Lectures; I had rather a feeling the other way; and I do not think it is any bias in favour of my former occupation that leads me to say that I have found the system of Lectures, coupled with Mootings and Examinations, eminently successful; that is, as far as the Students demeanour, and their interest in the subjects brought before them, enable me to speak.

1413. Looking at your particular department, do you think that by oral instruction, with the assistance of Private Classes, for those who are disposed to attend them, you could supersede the necessity of a gentleman's attendance in Chambers?—Not at all; it would be quite visionary.

1414. Would it shorten the time?—Perhaps six months. In the case of a man of considerable capacity, it might shorten it a year, supposing that generally men take two years at least in Chamber practice.

1415. The advantage gained by attending those Lectures is to give the Student a more comprehensive view of Law generally?—I think he sees it from a new point of view. In the first place, the Lecturer considers it his duty to present to the Student the philosophy of the branch of Law under review, (using the term "philosophy" for want of a better), and then to connect, as clearly as may be, the technical and minor rules with the philosophy. With this view, I began every course twice a year with an Introductory Lecture, in which I endeavoured to exhibit the science of the particular subject that was to follow, and its connexion with general Jurisprudence. I recollect having a whole course of Lectures upon the Statutes of Limitations, and I went thoroughly through them; but I found that a great deal might be said in the Introductory Lectures as to the reasons why there should be such Statutes, and the injurious consequences which would ensue to society in the absence of them.

1416. Do the Lecturers use any of the little German Hand-books, by Hugo and others, as guides at all, in giving lectures?—I never heard of such a thing. I may have been bold, but I endeavoured simply to understand the subject myself, and to present my views to the Students.

1417. Do you conceive that it would be of general advantage to the Profession, and through the Profession to the public, that those who practise as Advocates should have a scientific knowledge of Law, and the principles upon which it is founded, independently of the mere practice that they may acquire as Advocates?—I myself feel, as a Practitioner, that I should have been very glad if, when I was a Student. I had had opportunities of having Law expounded as a science, and therefore I cannot but answer the question in the affirmative.

1418. With regard to a compulsory Examination, have you formed an opinion upon that subject?—Yes: I have a leaning against it.

1419. What is your reason for that?—I am one of those who think that the Bar derives an advantage from its not being restricted to Practitoners.

1420. You mean from the circumstance of its being accessible to gentlemen of liberal education and Statesmen?—Just so; whether as a matter of fact, in the case of a gentleman joining the Bar who is going to be a politician, it does lead to his studying the Law, I do not know. We all know, however, that there are eminent men in political life at the present time, who are in the list of Barristers.

1421. Do you not think that that class of men might be improved by having to go through the course of study which would be necessary for them to acquire the general principles of Law?—I should say that they would be; but I am afraid that they would be deterred from seeking admission to the Bar, if as a condition, they were compelled to pass an Examination.

1422. If such men are ever to do any thing in the country, they would attend the Lectures for the purpose of benefiting by them?—They would prefer doing it, probably, as an unprompted act of their own: one which they chose to do in the exercise of their own judgment, but which they would not relish if imposed upon them by a return to the state of pupilage which they had previously passed through in the University. I may mention the case of Mr. Frederic Peel: he attended my Lectures and Mootings, and gave me some very able arguments for a whole year, but he did not join in the annual Examination, being nevertheless quite abundantly competent, as was proved by his papers, which were of the most ample satisfactory kind.

1423. Do you think it is possible that such gentlemen would take a more general view of the study, and not addict themselves so much to the specialities of it, as is the case with the man who intends to be a Practitioner?—No doubt; they would not have occasion to go so much into the specialities of the subject.

1424. You conceive that there is a feeling of dislike to the restraint of a compulsory Examination upon the part of gentlemen who have just finished all their compulsory Examinations at the University?—Yes, the uncertainty attending the issue, and the different relation in which a man stands who takes a study upon himself voluntarily and gratuitously, and one who does it by order. Such considerations as these, I think, would operate very much to deter gentlemen from joining the Bar, if an Examination in Law were prescribed, except when they sought admission to it as a calling.

1425. Do you not think that gentlemen of the same degree of station and liberal education would all of them, without the least difficulty, be able to pass such an ordinary Examination as it might be thought desirable to render compulsory, for you would not have a very high standard?—It would depend upon the departments of Law selected. There probably could be no reason for not requiring them to pass through an Examination into the principles of general Jurisprudence to a great extent; and probably you might include Roman Law. I cannot see, certainly, that any man ought to complain of that being made a part of his ordinary education; still less that it should be one condition of his being admitted to the Bar, if he chose to seek admission.

1426. Have you considered whether it might not be desirable to have a general Faculty of Law in the metropolis, chosen by the different Inns of Court, which should confer Degrees in Law, by which means country gentlemen and others might take their Degree in any branch of Law?—In fact, that is should be a University to that extent?

1427. Yes; and that the taking of a Degree should be an immediate passport to the Bar, merely upon the payment of the additional fees required for the Call?—It strikes me that it would be too elaborate a machinery for the end required, and that it would be regarded as a rival to the other Universities, which would operate to its detriment. I have heard a pretty general expression of feeling against setting up a Legal University in London, in opposition, as it were, to the other Universities.

1428. Do you think that facilities might be afforded for the study of the Law generally, by some combined system of action with the Universities, by which a course should be taken there that would give persons advantages when they afterwards came to London?—Most undoubtedly. I think that is the very thing that is wanted, the carrying the Law Course at the University further than it is at present carried, and making it a bonâ fide thing.

1429. Would that be easy to be done at a University?—Yes; I cannot see the difficulty.

1430. How many Chairs would you recommend?—I should not, for example, suggest a Conveyancing Chair as distinguished from the elements of property, which would be treated as part of the elements of Jurisprudence. The Chair or Chairs of Law in the University should be confined to what may be termed the philosophy of Jurisprudence—Jurisprudence, I mean, as extending to everything of the character of Law, which experience and civilization have proved to be necessary to society.

1431. How many Chairs would you suggest for a course to entitle a man to obtain a Degree of Doctor of Laws, to go out in Law?—Common Law and Equity might be combined, if you did not go too deep in the specialities of either, and therefore the question somewhat hinges upon that. I cannot see that a man of liberal education ought to be without a general knowledge of the principles of Equity, and a general knowledge of the principles of Common Law; and therefore my view is, that the instruction in Law that the University could usefully give, would not require to be minutely divided into Chairs; but I should think there might usefully be a Chair for the Law of Property, another for Law in all its other relations (including Equity and Common Law), and another for the Civil or Roman Law.

1432. You think that there might be a Professor of Law, who could give elementary instruction in several branches?—Yes.

1433. That instruction would be very general, would not it?—There would not be material for many separate Professorships, if the subjects were not in detail very deeply investigated; and therefore it seems to me that it would be useless to go beyond the threefold division I have suggested. Supposing that the admission to the Bar should be made contingent upon proficiency in Law, my hypothesis is, that it ought only to be so, consistently with those men coming to the Bar who do not intend to practise there. Therefore, only moderate Legal attainments can be made a condition of the Call to the Bar, consistently with that object. The opportunity for these attainments might be furnished either by the Inns of Court, or the University, or both.

1434. You would have the small modicum of knowledge which might be enforced, acquired at the University, instead of being acquired in London; and then you would require that those who did not present a University Degree of that character, should be compelled to undergo a similar Examination here?—Yes. I do not think that the office of the Inns of Court is contingent upon a similar office, being or not being discharged in the Universities. The Inns of Court ought to give exposition in Law, whether the Universities do so or not. First, they ought to give an opportunity to those who are going to practise of proving their competency, and acquiring distinction. And next, if a qualification is proper to be required of all who come to the Bar, whether intending to practise or not, then for those who are not going to practise, there should be Examinations in Jurisprudence as distinguished from Municipal Law. The technical peculiarities of English Municipal Law ought not to be required of those who are not going to practise; and, therefore, I

W. D. Lewis, Esq.

25th July 1854.

think it is not expedient to make a knowledge of Law, as distinguished from Jurisprudence necessary to every one who comes to the Bar. Such books as the first volume of Blackstone, the first volume of Spence's Equity, and Smith on Contracts, might, however, be enjoined as subjects of study, besides more general treatises on Jurisprudence.

1435. You mean those general works which lay down the general principles of Law?—Yes.

1436. That might form a course of study?—Yes. I think, however, that in discussing the science of Jurisprudence, our Lectures ought to aim at something different from the German and most of the continental expositions of Law that I have met with; the fault of which, is their being too abstract and remote from practical life, and generalizing too much. The theories of foreign Jurists sometimes appear not reduced to particulars enough to be of practical use to the Student, when in after life he becomes a legislator or politician.

1437. Do you concur in the notion that has been expressed by several of the Readers, that if there be a compulsory Examination, it should take place about a year or so before the call, in order that a gentleman might have an opportunity afterwards of attending Chambers?—I should say that it ought to be as near his call as possible, *i. e.* after the time which would admit of his having passed through Chambers. My rule was, as regards the annual Examinations, that they should be within the last three months of their call.

1438. Have you anything else to suggest to the Commissioners?—I would take leave to observe (though I apprehend it is hardly necessary) that all the Lectures should be in writing, with extempore amplification, as the Lecturer finds his audience require it. Another observation which I would make is, that I found it very difficult to draw a line of distinction between one branch of Law and another. My Professorship was upon Real Property, but I found it extremely difficult to draw a line with respect to that. Thus, with reference to the subjects of my Lectures, I had a whole course of Lectures on Lord Eldon's Decisions, which proved, I believe, highly interesting to the Students, and then I had two courses of Lectures on Lord Coke's Reports. These I considered the most interesting courses of instruction that I engaged in. I felt that it would have been an unscientific treatment of my branch of the general subject, technical though it was, not to have taken in all cognate Law and cognate Equity.

1439. Would you desire to have an additional Lecture upon Medical Jurisprudence?—Yes, my impression would be in favour of it decidedly. I was going to remark, that as a general rule, I found the Students always inattentive when books were read to them. If I read to them a passage out of a book, they immediately resigned themselves to a sort of rest; but if I gave the passage as my own, afterwards remarking that it was from Lord Eldon, they attended to it very eagerly. And I got into that practice of never appearing to read from a book, for I found it was vain work. With regard to Moot cases, I would press that portion of the system, practised by me at Gray's Inn, strongly upon the notice of the Commission. I will just mention wherein it appears to me to be useful. It has none of the objections of a debating society about it; it does not beget any of the evils of a debating society. The rule of compelling the Students to compress their arguments within a certain time, is good. Again, by Moot cases you catch up all the straggling points, not susceptible of scientific treatment, that stand out of the general course, and are angular. There are many points that do not come into any theory, and you dispose of them in that way. Then, by a Moot case, you illustrate your Lectures. If the Students are not up to the mark upon any of the subjects which you have been lecturing on, you take a good striking practical case, and by this means you can bring it home to them more forcibly.

1440. How do you put a Moot point?—The construction of a devise would be one case; such as the class of gifts on persons "dying without issue," which is a very numerous class. I would put such a case as would involve the whole discussion of a principle in that class of cases. Of course I framed the case, knowing, or supposing that I might know, the proper solution of the question; and, therefore, also knowing that the proper discussion of the case would elicit a full examination of all the surrounding principles and doctrines; and in this way, certainly, I succeeded in bringing out a great body of doctrine in the arguments. Sometimes I went to the argument with a prepared opinion upon the point in question; and at other times I deferred giving my opinion; and I must say, some very able arguments have been addressed, which would have done credit to some of the first men at the Bar. Some of the Benchers at Gray's Inn generally attended the Mootings, and would bear witness to the fact that the Students did exhibit the greatest possible interest in Moot cases. For the due order and regulation of the Mootings, I framed Rules, to which I found no difficulty in procuring submission on the part of those who attended the discussions.

Adjourned.

Monday, 27th November 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

ALEXANDER PULLING, Esq., examined.

A. Pulling, Esq
27th Nov. 1854.

1441. How long have you been in the Profession?—I was called to the Bar in 1843.

1442. You have practised as a Special Pleader?—I have practised as a Special Pleader, but not under the Bar.

1443. Are there any observations which you wish to make to the Commissioners?—The subject I wish to bring before the attention of the Commissioners is that of the existing Rules affecting Special Pleaders and Conveyancers, both by Act of Parliament and the Benchers' Regulations. I venture to suggest to the Commissioners that the provisions, both of the Acts of Parliament and of the Benchers' Regulations, are disadvantageous to the Profession of the Bar, and not conducive to the study and practice of the Law.

1444. You consider that those Regulations have a disadvantageous bearing upon Legal education generally?—I do.

1445. Do you think that the system under which a young man goes to a Pleader's Chambers is a bad system, as regards the acquisition of Legal knowledge?—I think a better system might be established if the class of certificated Pleaders were done away with. I think if instead of the business of a Pleader being conducted as it is now by Gentlemen who do not practise at the Bar, that work were done by the Bar generally, a better school would be provided for Students in the Chambers of Barristers engaged in practice than in the Chambers of Pleaders who do not go into Court.

1446. At present, pupils have their choice, have not they, whether they will go to a Practising Barrister or to a Special Pleader?—They have; but the present system tends so much to bring a very large class of formal business into the Pleaders' Chambers, and offers such great inducement to pupils to go there to acquire a knowledge of forms, that practically the Pleaders have the advantage.

1447. In what way do you conceive that attendance at the Pleaders' Chambers operates disadvantageously as regards the education of the Students?—It confines their attention to pleading instead of its being directed to the general practice of the Law, which I conceive a Student ought to attend to more than to the drawing of pleadings.

1448. You think it has a tendency to narrow the inquiries, and limit the knowledge of the Student?—Certainly. What I would submit to the Commissioners upon this subject is that the Benchers' Regulations are illegal, and might be disobeyed; and such being the case, the provisions of the Acts of Parliament are decidedly disadvantageous, in preventing a proper system of education for the Bar. The various Acts beginning with the 44th of George the 3rd, and ending with the 16th and 17th of Victoria, give, as I venture to submit to the Commissioners, an absolute power to anybody who has become a Member of one of the Inns of Court, and has gone up to the Under Treasurer's Office and paid his fees, to obtain a certificate to practise as a Pleader or Conveyancer. The words of the original Act, the 44th of George the 3rd, apply to "every person who "shall, for or in expectation of any fee, gain, or reward, directly or indirectly, draw or "prepare any Conveyance of, or Deed relating to any Real or personal estate, or any "proceedings in Law or Equity, *other than and except* Serjeants at Law, Barristers "Solicitors, Attornies, Notaries, Proctors, Agents, or Procurators, having obtained re-"gular Certificates, and *Special Pleaders, Draftsmen in Equity, and Conveyancers,* "*being Members of one of the four Inns of Court.*" I submit to the Commissioners whether the words used would not authorize mere members to practise. It has been held since the Acts passed that Conveyancers, who are the only class of persons who have come before the Courts, as to the construction of these Acts, have the right to bring an Action for their fees, and that their profession is one legalised by Act of Parliament, and that Gentlemen certificated under the Acts have legal rights to enforce a bill by Action.

1449. Which Regulations of the Benchers are they which you consider to be illegal?—Those by which the Benchers impose upon an admitted member the necessity of keeping twelve Terms, or obtaining the Benchers' express sanction before he obtains a certificate from the Stamp Office. These I conceive are conditions which would be held to be in restraint of legal rights. I put them on the same ground as those byelaws, conditions, and covenants, which have been solemnly declared to be void as in restraint of trade.

1450. What you say is, that if the Regulations of the Benchers were got rid of by what you regard as their illegality, the Parliamentary Regulations then permitting persons to practise merely after becoming members of one of the Inns of Court, a class of persons would be introduced into the profession without a proper education?—Certainly.

1451. The Commissioners infer that your opinion is in favour of some general system of education for the Bar?—Unquestionably.

1452. You are probably aware of the new Rules by which the Inns of Court have established a Council of Legal Education, and required all persons practising as Special Pleaders to attend a certain number of Lectures?—Yes.

1453. Those Rules would be according to your opinion equally illegal with those to which you have referred?—Yes; I consider that they would be *ultra vires*.

1454. You are no doubt aware that the Inns of Court have been held to have a very considerable jurisdiction over the Members of their body?—Yes.

1455. Even to the extent of depriving them of the power of practising altogether?—Yes.

A. Pulling, Esq.

27th Nov. 1854.

1456. They may dismiss from the Inn?—Yes; but if they were to dismiss from the Inn upon this ground, I conceive the Judges as Visitors would restore the Member. If a man upon being admitted a Member of a Corporation were to covenant that he would restrict himself from doing that which his status as a Member gave him a right to do, it would be an illegal covenant. I may perhaps be allowed to say that I have prepared myself with some authorities in furtherance of my own views on this subject. I think the Commissioners may probably pay attention also to the observations of Mr. Chitty in his book on the general Practice of the Law; the language which he uses is so good and his objections are so forcible against the propriety of the mere fact of admission entitling a party to practise, that I think they are worthy of the Commissioners' attention. They will be found in his Second Volume, page 34.

1457. Have you turned your attention to the question of the propriety of a compulsory Examination before allowing a man to be called to the Bar?—I think, certainly, a compulsory Examination is most desirable, and even necessary. I can see no reason why, when a compulsory Examination is required in the case of Attornies and Solicitors, it should not be required in the case of a man who is going to the Bar. The Legislature has of late years been induced to make the call to the Bar a qualification for important offices, and these offices may, if no preliminary examination is prescribed, be still filled by gentlemen who are Barristers merely in name.

R. Maugham, Esq.

ROBERT MAUGHAM, Esq., Secretary of the Incorporated Law Society, examined.

1458. You desire to make some statement in reference to the Inns of Chancery?—I saw the Secretary of the Commission, and made some suggestions to him: I have not since that time had an opportunity of taking the instructions of the Council of the Society. They have certain suggestions, which I prepared under their direction, and they have referred them to a committee of gentlemen of their body, who have not yet reported. If the Commissioners please, I can state the subjects of the suggestions which I made. Among the suggestions are some matters in reference to the Commissioners calling witnesses before them for the purpose of obtaining information regarding some of the Inns of Chancery which may be said no longer formally to exist. The first Inn I will mention is Furnival's Inn. The ground rent of Furnival's Inn, which amounts to 500*l.* a year, is received by Lincoln's Inn, Lincoln's Inn having granted a lease; and it appears by a sale which has recently taken place of the improved rent of the property, that it is of very considerable value, upwards of 6,000*l.* a year. I believe the Council of the Law Society will submit to the Commissioners, on the part of their branch of the Profession, that inasmuch as Attornies and Solicitors have been for many years excluded from the Inns of Court, and derive no advantage from their Libraries and Lectures, the surplus rent which may be derivable from the Inns of Chancery should be applied to the improvement and the education of the Attornies and Solicitors, and their Articled Clerks.

1459. How would you sever that from any other portion of the revenue of Lincoln's Inn?—It is derived from an Inn of Chancery which was composed entirely of Attornies and Solicitors. Originally they paid, I believe, a very small ground rent; and at the time the new buildings were erected, a new lease was granted from Lincoln's Inn, and a larger rent was given. In ancient times the Attornies and Solicitors belonging to that Inn paid but a small rent.

1460. They paid a rent, probably, in proportion to the value of the property?—Only a nominal rent, I believe. It is a ground-rent, and may be considered to be in Trust.

1461. For whom do you consider it was in Trust originally?—If I am right in supposing that the members of the Inns of Chancery are Attornies, and that they were so formerly, those rents should be applied to the improvement and the education of that branch of the profession, and not to the Bar, who, I submit, have ample means.

1462. Supposing they had rented it of some nobleman at the same rent, ought that nobleman, in your opinion, to have applied it for the use of the Attornies and Solicitors?—If it were private property, of course not.

1463. Is it at all certain that the original inhabitants or proprietors of those Inns of Chancery were always Attornies or Solicitors?—Certainly, the members of the existing Inns of Chancery are so.

1464. Are there not many private persons who have rooms and Chambers in those Inns?—Yes; but I speak of members who come into Commons in the same manner as members of the Bar in the Inns of Court.

1465. Are there any other Inns from which you consider there is a surplus income?—I do not know that there is any surplus income. There may be leases granted at very low rents, and the possession may obtain something hereafter, when the leases have expired. There is Thavies Inn, which appears to have been an Inn of Chancery in former times, which is now inhabited by various classes of persons. Mr. Groom, who occupies the house No. 16, is the Treasurer of that property; and I would suggest, whether the Commissioners may think it desirable that he should be asked to give such information as he possesses regarding the rights of the parties for whom he collects the rents. I take it, the Ancients of those several Inns of Chancery held them upon a certain Trust, and had no notion that they could make a title to that property, and divide the surplus. The next Inn is Symonds Inn, the ground rents of which are received by the Bishop of Chichester. I have no information of that having a Principal and Ancients, in the manner that other Inns have. It is stated in some of the old books, that though called an Inn

of Chancery, it was for Serjeants and Masters in Chancery. The Master's offices were there at one time, and that might have given occasion for its being so called. Mr. Burder, of Parliament Street, who is Solicitor and secretary to the Bishop of Chichester, would, if the Commissioners thought proper, I presume, give information whether that is available, either now or at a future time, for the purposes of Legal Education. There is also Lyons Inn, formerly an Inn of Chancery, the rents of which are collected by Mr. Layton, of No. 2, James's Grove, Peckham.

R. Maugham, Esq.
27th Nov. 1854.

The witness withdrew.

JOHN GEORGE PHILLIMORE, Esq., Q.C., M.P., and Bencher of Lincoln's Inn, examined.

J. G. Phillimore, Esq., Q.C., M.P.

1466. You are a Queen's Counsel?—I am.

1467. You are the Reader of Constitutional Law and Legal History, appointed by the General Council of Legal Education?—I am.

1468. You have had about two years experience of the working of the system, have you not?—About that time.

1469. Will you state to the Commissioners, what, according to your impression, are the effects of the present system in the way of ameliorating, or otherwise, the education of the Bar?—I think the system extremely beneficial, much more visibly so than I at first supposed it would be. The attendance is very numerous, much more numerous than I expected, speaking with regard to my own Class, and with regard to the Class of the Reader on Jurisprudence. I mention those two because they are the two branches which offer the least attractions to those whose object is immediate tangible profit. I should observe that the particular benefit which young men begin to feel, is that the Lectures prevent the first year at Chambers from being thrown away. I had a strong instance of that in the case of one young man of considerable talents, who got the Scholarship; he came up to me and entered into conversation with me on other subjects, and told me that it was an almost universal opinion that the Lectures saved young men from throwing away a year in Chambers.

1470. In what respects does it do so? did he think it advantageous that a young man should attend the Lectures while he was attending Chambers?—He thought that before attending Chambers, it was beneficial to have some channel dug into which the pupils might direct their thoughts, particularly in reference to cases calling their attention to the more remarkable decisions and opinions in our Legal history.

1471. He went to Chambers with greater advantage by means of that previous instruction?—He considered it of great advantage, and he found that to be the general opinion of the young men with whom he was acquainted; he had attended my Lectures, private and public, very regularly. I knew his voice directly: I remembered him as a young man of remarkable talent.

1472. Do you find that the Students attend the Lectures before they go into Chambers?—That I have not the means of ascertaining from personal knowledge at all. I should say that many come up from the country, and make an effort to attend before they go to Chambers; but I think many do attend Chambers at the same time.

1473. Have you personally ever heard any complaints on the part of any of the Students of inconvenience arising from their being withdrawn from Chambers?—No; I should not be a very likely person for a young man to address on such a point; certainly no such complaint has been addressed to me.

1474. The Students attend the Lectures and also Classes?—Private Classes.

1475. Do many attend your Private Class?—At this moment I have a numerous Private Class.

1476. How many have you?—From ten to twelve; they have varied generally from four to five; my Public Class this Term was eighty-two.

1477. Have you found what other gentlemen who have been examined have stated to be the case: that the Examinations which have hitherto taken place, have carried an increasing degree of knowledge on the part of the Students?—Beyond all doubt, there has been a very visible improvement in the tone of the Examinations; there can be no question of it.*

1478. Having seen the effect of the existing system, namely, a compulsory attendance at the Lectures, and a voluntary attendance upon the Examinations, have you any suggestions to make as to any improvement which might be introduced?—First of all, I think the Examinations should be compulsory. Next, I think the young men should not be obliged to attend all the Lectures, but that they should have their choice, with the exception that they should be obliged to attend certainly two courses of Lectures, of which either the Constitutional Law and Legal History, or the Readings on Jurisprudence, should be one. I say that, because I think that tends to enlarge the basis upon which their knowledge is to be raised. I think there are a vast number, who, relying on a connexion with Attornies, and careless of all information which they cannot coin at once, would gladly avoid anything of the kind; no discovery can be made on a flat.

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* "I wish Mr. Sutton's intention exalted a little, that what he meant for teachers of children, your Majesty should make for teachers of men;" "readers in the chair are as parents in the sciences."—*Lord Bacon's Advice on the Sutton Estate.*

J. G. Phillimore, Esq., Q.C., M.P.

27th Nov. 1854.

1479. Does general Jurisprudence include the study of the Roman Law and the Pandects?—Yes. It includes of course Lectures not upon the whole of the Pandects, but upon chapters of the Pandects, and which are, I have no doubt, treated of very ably by Dr. Maine; and Lord Bolingbroke particularly recommends the study of the Roman Law as a preparation for active life.*

1480. Have you a very strong opinion that such a compulsory attendance is desirable?—Yes, and my opinion is equally strong as to not wishing the mind to be too much dissipated by the number of Lectures the young men now attend. It is possible, no doubt, with a great stretch of attention, for a young man to attend all those Lectures, but it is too much to expect. I would make it necessary that he should attend two sets of Lectures, and of those two sets of Lectures, one should be either mine or Dr. Maine's.

1481. You would not think that what is called a complete Legal education, would be in all cases necessary or proper for an English lawyer?—It is valuable, but I do not think it is possible to carry every part of it on so advantageously in the same year, and at the same time. I think the same capabilities that enable a man to distinguish himself in one branch of the Law, will induce him to take up other branches of the Law afterwards. I should say of Law as of letters, *non multa sed multum*, for beginners at any rate.

1482. Probably if the system of compulsory Examination were to be adopted, you would distinguish the pupils, as is done at the University, into two Classes, those who are anxious to compete for Honours, and those who are anxious to pass with a certain degree of credit?—Yes, and I would not put the standard for a pass high.

1483. A general view of the whole Profession might well be required on the part of those who wished to pass for Honours?—I do not know even as to that. It is a great deal to expect from any one, including as it does Equity, Conveyancing, and the Common Law, and besides that our Constitutional Law, the general Roman Law, and Jurisprudence. The consequence is, that one of those subjects is usually much neglected, sometimes it happens to be my own branch. One of the gentlemen who was thought worthy of passing by the Council, had never heard of the Spanish Armada; another, who had never heard of Lord Clarendon, was selected some time ago for an honourable notice. The gentleman who had never heard of the Spanish Armada was allowed to hold rank in a Profession supposed to consist of educated men.

1484. Would you think it desirable to have any preliminary Examination upon general subjects before a gentleman is admitted as a Student of the Law?—I doubt very much the benefit of such a scheme.

1485. The Legal education which you are giving is directed only to Legal subjects; it does not comprise anything like History, does it?—Yes, a great deal of History. It comprises Constitutional Law and Legal History. I think one circumstance, which I do not however see the means of escaping from without incurring greater evils, the circumstance of the more highly educated branch of the Profession depending for distinction and profit upon a class quite inferior to it in education and sentiment, has a very pernicious effect upon the higher Class. The only way of obviating that is to raise the standard of education in those who are called to the Bar. The great evil that our Profession has to struggle against is, and has been, the narrowing and illiberal tendency, which must be the result where men look for encouragement and reputation to persons of inferior education; I speak of course generally. It is not likely such persons should encourage qualities they do not understand and cannot appreciate.

1486. Some gentlemen have thought it would be desirable that at the University there should be some previous study of the Law, and that a person who has made some proficiency, that proficiency being tested by a Degree in Law from the University, should have a certain amount of dispensation as regards his Legal studies afterwards?—I do not think so; I think the Universities do their duty well if they lay the foundation in classical knowledge and mathematics; I differ entirely from the opinions now fashionable on that subject, especially from those of the late Royal Commissioners on Oxford Education, which appear to me crude, superficial, and erroneous.

1487. Would it obviate your objection if a person before he were admitted as a Student of the Law were required to bring with him something in the nature of a Certificate of general education, either from the University or some great school, showing that he was a person of good general education?—No; I should place very little confidence in such Certificates. The object of the University, in my opinion, is not to impart general education; it is the greatest possible mistake to suppose, as has been taken for granted of late, that mechanical cramming Greek Iambics is education, or that the proper business of the University is to give a general education, or even to give a complete classical education. Its business is rather to refine the taste, to strengthen the judgment, and to give that discipline to the mind which will enable it afterwards to grapple with any subject it may be called upon to master.

1488. Has not it frequently happened that persons of inferior education have shown a very eminent degree of aptitude for Legal attainments?—In consequence of the peculiarly barbarous character of the English Law, it has been so with us, but I do not think you will find it to be so in the case of any other system of Law except our own—certainly not to the same degree. I regard it as a great misfortune; but we are still the nation in which Serjeant Fleming was preferred to Lord Bacon. So far we rival the age of our great Elizabeth.

* In a letter to Lord Gower.

J. G. Phillimore, Esq., Q.C., M.P.

27th Nov. 1854.

1489. Do you think the English Bar can be said to have been inferior to the Bar of other countries?—I do; I think it a point beyond dispute; I look upon it as infinitely inferior to the Bar of France, including the magistracy by that term. I should never think of comparing the men whom the Bar of England has produced, down to a very late period at all events, with the men whom the Bar of France has produced. And it should be recollected that the great French Jurists were free among the dead, (constitutionally speaking,) while the English Lawyers were slaves among the living. Bacon tells you he examined Peacham before the torture, between the tortures, during the torture, and after the torture; a hangman could do no more. Where are our Molés, D'Aguesseaus, and Lamoignons? In the present age, what writers on legal subjects have we to compare with Toullier, Pardessus, Cormenin, and Troplong, the last, by the way, President of the Court of Cassation? With the single exception of Lord Mansfield, I am not aware of any great men that the English Bar has produced, since the days of Lord Somers. I have often wondered how few eminent men it has produced, considering its rewards. Swift says Lord Somers was the only great man of a Lawyer he ever knew; his opinion is still more strongly expressed elsewhere. Lord Bolingbroke and Lord Chesterfield, both men of the world and expressing the opinion of the world, speak with unbounded contempt of Lawyers, and of the means of legal success.* Nothing can be more childish and mischievous than our way of praising ourselves in spite of fact and reason.

1490. Lord Stowell?—He is an instance directly the other way; he was not produced by the English Bar: his case may be cited in support of what I say: he was like Lord Mansfield, the growth of Oxford before the cramming system.

1491. With regard to the Examinations not being spread over so wide a field, do you think there would be any advantage in varying the period for the Examinations, having one Examination one year, and another the next year?—I think there would be some difficulty in it, though I think that such an arrangement would be preferable to the present system.

1492. You look upon the present system as ineffective?—By no means; but I think the Examinations might be made more effective if that change which I have suggested took place. And there is another alteration which I would recommend. In my opinion, there are too many Public Examinations in the course of the year, and their effect is very much diminished in consequence; I think it must end in making such honours cheap; I would not have more than one Studentship given away in the year.

1493. Or two Studentships at one Examination?—Yes, that might be done. I think they are much too common now, though I think highly of the knowledge and abilities of those who as yet have gained them.

1494. Attendance at the Lectures being compulsory, do you find that gentlemen who attend, and who do not intend afterwards to be examined, appear to take an interest in them?—I am very short-sighted, but I am informed they do. I am able to say this, that I never receive the slightest interruption.

1495. Other gentlemen have spoken of the number who appear to take notes?—There are a considerable number at my Lectures who appear to take notes. It may be they draw caricatures. I should say, certainly, composing, as they do, a very mixed class, and a considerable number of them being without any very serious views, who would be likely therefore to regard any Lecture as irksome, the attention is remarkable. I have always, however, been very particular; if there has been the slightest conversation, I have always stopped.

1496. The fear has been expressed that a compulsory Examination might in some cases deter gentlemen of fortune and country gentlemen from undertaking the studies and going through the Classes; what is your opinion upon that subject?—I think if it were well founded it would be a serious objection; I attach very great importance for the sake of the Public, as well as for our own sake, to the circumstance of the Bar being composed of all the educated classes of society. I do not, however, think, if the Examination were a reasonable Examination, it would be so regarded. The same thing was said respecting the Examination for Degrees at the Universities, but it was found in that case to be totally unfounded. On the contrary, in my opinion, it would rather encourage country gentlemen who meant their sons to act as Justices to send them to the Bar. At present, the fact of a man being a Barrister does not prove that he knows anything; but in the case supposed some test would be afforded that he had acquired a moderate amount of knowledge: there would be as much difference between a Barrister made after an Examination and a Barrister made without one, as between a Militia Colonel and a Colonel in the Army.

1497. You think the effect of subjecting them to a compulsory Examination would not be to deter them from undertaking the study?—No.

1498. Do you think that a scheme of this kind could be adopted to meet the case of those who do not intend to practise at the Bar? Might not you confer the Degree of

* Swift's passage in Gulliver's Travels, beginning "If a Lawyer has a mind to have my cow from me," &c.

"I might instance in other professions the obligation men lie under of applying themselves to certain parts of history, and I can hardly forbear doing it in that of the Law, in its nature the noblest and most beneficial to mankind, in its abuse and debasement the most sordid and the most pernicious. A lawyer now is nothing more, (I speak of ninety-nine in an hundred, at least,) to use some of Tully's words, 'Nisi leguleius quidam cautus et acutus, præco actionum, cantor formularum, auceps syllabarum.' But there have been Lawyers that were orators, philosophers, historians. There *have been* Bacons and Clarendons, my lord. There *will be none such any more*, till, in some better age, true ambition or the love of fame prevails over avarice, and till men find leisure and *encouragement to prepare themselves* for the exercise of this profession by climbing to the 'vantage ground,' so my Lord Bacon calls it, of science, instead of grovelling all their lives below in a mean but gainful application to all the little arts of chicane. Till this happens, the Profession of the Law will scarce deserve to be ranked among the learned professions, and whenever it happens, one of the 'vantage grounds to which men must climb is metaphysical and the other historical knowledge."—*Bolingbroke's Letters on History, Letter* 5.

J. G. Phillimore, Esq., Q.C., M.P.

27th Nov. 1854.

Barrister, that is to say, call a man to the Bar for one payment, and then for an increased payment give a Licence to practise, so that persons who merely wished their sons to have the credit of being called to the Bar, might have it without having to pay largely for it? —I do not think that such a plan would answer. I think that drawing a distinction between two classes of Barristers, those who pay more and those who pay less, those who mean to practise and who do not, would be very inconvenient; besides a man might afterwards wish to practise though he had no such intention originally.

1499. He might at any time be permitted to take out his Licence?—I think there would be difficulty in it, and I do not see the advantage which would result.

1500. Have you ever considered the scheme of the Inns of Court assuming somewhat of a corporate character, that there should be something like a central Faculty constituted, which would bear the same relation to the various Inns that a University does to the Colleges?—I have thought of it. I confess I do not see my way to it. I think the Inns as at present constituted are perfectly capable of performing the duty required of them, and I think they are very anxious to do so, as far as my observation has gone.

1501. The General Council of Legal Education to some extent represents a Body of that kind: would there be any disadvantage in the Inns being incorporated?—I do not think there would be any advantage gained which you may not equally obtain from the system which is now in existence. There is a high feeling of honour and a strong desire to do right in the men who are chosen from the leading members of the Bar to be Benchers of the respective Inns, to act in a sort of censorial capacity. They constitute an excellent aristocracy; they have no conceivable motive to go wrong; their honour and social status are involved in the honour of the Profession which they watch over; they are disinterested, except for the general good; very considerate, almost too indulgent; men of highly exercised minds, and yet not overlooking offences, which the interests of society require them to notice; there may be here and there exceptional cases, but that is their general character.

1502. If you make the Examination compulsory, would you also have the attendance upon the Lectures compulsory?—Yes, both. For the reason which I have already given, I would not have attendance upon all the Lectures made compulsory, but I would have attendance upon two sets of Lectures compulsory, and of those two sets either the Lectures on Constitutional History, or the Lectures on Jurisprudence, should be one, because I am quite sure the general feeling would be to go to neither unless it were made compulsory.

1503. In that case would you make the Examination co-extensive with the Lectures attended?—If they chose to confine it they might. I would not have them examined on subjects, the Lectures upon which they had not attended, unless they wished it.

1504. To what do you attribute the superiority you suppose to exist in the French Bar over the English?—Principally to the study of the Roman Law, and of the theory of Jurisprudence, added to the absence of the evil I have noticed, in the almost absolute power of Attornies over the English Bar.*

1505. Do you imagine that the French public have gained any advantage? has not there been more chicanery practised under their system than we have had?—I think the public have derived very great advantage from the character of the French Bar. To suppose that the chicane of the French system can be compared to ours, is simply ridiculous. Not to quote their writers, which are read by every jurist, I do not think any one can read the history of Louis XV., nor the history of the Fronde, or the history of Louis XIV., especially Fouquet's trial, almost in the days of Scroggs, Trevor, and Jeffreys, Mrs. Gaunt, Lady Lisle, and Alderman Cornish, without seeing the value of the French Bar, and the superiority of its members to our own. In France, under a despotism, the Bench was often independent; in England, with free institutions, it has been often servile.

1506. Has their system been less disfigured by chicane than ours?—You might as well ask whether the Italian language is less disfigured by consonants than ours. I do not understand how a doubt can exist about the matter in the mind of any one who has read the Procedure. I think in France there was more to counteract it, and the amount of it was much less. The French system always varied in different provinces, but I should say that there was nothing at all in the French system to encourage chicanery, compared with the system of our Special Pleading in criminal as well as civil cases, or our peculiarly complicated law of Real Property. In all highly polished nations, there will be a certain amount of chicane. I cannot imagine that anything so shocking to reason as some really grotesque decisions which have prevailed with us upon points of Special Pleading, the construction of Wills, and the law of Real Property, could have taken place at the French Bar.

1507. Have you considered whether at the University anything could be done in the way of a preparatory education for the study of the Law?—In my opinion, if anything of the kind is to be done at all, it must be done after the young man has taken his Degree. It would involve the necessity of Professors competent to teach on such subjects residing there. Now I do not think, considering the rewards which can in this country only be obtained by active life, you would find men willing to reside in the University for the purpose of teaching a young man what he would require to know for the rewards there held out; for that purpose I think he must come here. You will find not only more facilities, but more men competent to direct him in his Legal studies here than in the University.

* It is he severe remark of a great writer, that what other rulers hired assassins to do, a King of England could always get done by his Lawyers. "Must it not" says Raleigh, "astonish and vex any man of a free spirit, when he sees none other difference between the judge and the thief than the manner of performing their exploits, as if the whole being of justice consisted in point of formality?"—*Discourse on War.*

J. G. Phillimore, Esq., Q.C., M.P.

27th Nov. 1854.

1508. Might it not be desirable to combine some small instruction in the Roman Law, for instance, with the study of Classical Literature and Mathematics at the University?—A general acquaintance with the Roman Law might unquestionably be given at the University, but the great difficulty would be with respect to the persons who would have to teach it. In this country, after a certain time of life, a man seldom resides as tutor in a University if he is a person of a certain amount of merit; if he is a Clergyman he looks to a living; if he intends to devote himself to active life, he cannot reside there. Therefore, you would hardly find persons at the University competent to instruct the young man, or direct him in such studies. It is a very different thing in Germany, where, there being no power of party, no power of opinion, no constitutional freedom, in our sense, and, therefore, no channel in which the activity of the mind can be directed, or what we should call public life, independently of Court favour or office, the ablest and most independent men reside down to an advanced age at the University: that is not the case in this country.

1509. Recurring to what you have said as to the superiority of the French Bar over the English Bar, do not you think it to be the case, that in England we have very few persons who do not devote themselves about the period of middle age to practical life, and who, consequently, find a very small portion of time which they can give to speculation?—I think the great misfortune with respect to the English is, that they look too much to details and not enough to great principles, while the French combine great practical acuteness with their general knowledge, as the Code Napoleon attests. Perpetual study of minute details destroys the eye of the mind, as constant reading small print does the eye of the body. The German, on the other hand, errs in not being sufficiently practical, as they are excluded from the pursuits of this free country, as the mind is not kept in its place by collision with active life. I think the French, on the other hand, are remarkable for their great practical acuteness. Take the miserable decision on the Statute of Uses, as an ancient example of our barbarous technicality. The power of Equity is entirely owing to the chicane of the Common Law as it was moulded by our Judges.* Take, as a modern instance of our want of practical acuteness, the fact that we have not a Public Prosecutor in this country, even at this time. We want ordinary foresight in legislation, as the Statute Book proves abundantly.†

1510. You have expressed yourself as not favourable to an Examination as a preliminary to a young man becoming a Student at one of the Inns of Court. Do not you think it would be reasonable to expect that a man should give some proof of having received something like a liberal education before he is admitted to those peculiar studies upon which he would be called to the Bar?—If he can read and write, I should be disposed to admit him. I would not interfere so far as I could avoid it, with his opportunities of acquiring Legal knowledge.

1511. Would you not require that he should read Latin and Greek?—No; of course, I think it highly desirable that he should possess a good knowledge of Latin and Greek, because in Latin and Greek the models of all excellence are only to be found, but I should not prevent his being a Student because he did not know Latin and Greek.

1512. There would be no period, of course, between his becoming a Student and his being called to the Bar, during which he could acquire it?—Probably not.

1513. At the German Universities, before they will enter a young man for the study of the Law, they require a special Certificate as to his knowledge of Latin and Greek?—I should not by any means take the Germans as a model; I should rather consider their practice as an argument the other way. Who could depend on a German Lawyer, where the Court was interested? Look at the state of Germany now. Look at their imbecile discussions in 1848, showing utter ignorance of all that makes rational freedom. I should not myself limit the class from which the Student is taken; I should say any person of fair moral character, even if he belonged to the humblest class of society, should have an opportunity of coming to be a Candidate for the Bar, and taking his chance of being afterwards able to pass an Examination.

1514. Passing that Examination does not necessarily imply the possession of any great amount of knowledge, does it?—It requires a knowledge of English History, and that is why I particularly insist upon the necessity of attending the Lectures on Constitutional Law and Legal History, or General Jurisprudence. I hope I shall not be supposed to undervalue the advantages of a knowledge of Latin and Greek in any way, but I would not exclude any person in consequence of the want of possessing it from the opportunity of becoming a Barrister. I think the system I have mentioned would give a much higher education. You would have the same people who come to the Bar now, with certain restrictions. The way to raise the Profession, I think, is the way which I have pointed out, by obliging people to acquire a certain amount of knowledge before they enter it, and by holding out other motives than the favour of Attornies to them. The same people who would be called to the Bar now, would be called to the Bar then; therefore, I should not lower the standard in any way.

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* "The Chancery Courts are filled, the remedy at Law being obscure and doubtful."—*Lord Bacon.*

† "Let not your letters be penned like English Statutes, and this (*i. e.* perspicuity) is obtained."—B. Jonson *Underwoods.* Again:—

"The bloody, base, and barbarous you may quote;
When Laws were made to serve the tyrant's will,
When sleeping they could save, and waking kill."

Milton speaks of our "barbarous Laws."

J. G. Phillimore, Esq., Q.C., M.P.

27th Nov. 1854.

1515. What would be your objection to this preliminary test which has been suggested?—Simply that I think it would have the effect of discouraging people who might become learned and useful members of the Bar. I think a man might be discouraged in early life very easily by such a test who might by labour qualify himself efficiently to discharge the duties of his Profession. We know that men have learnt Latin and even Greek after they have been called to the Bar.* I venture to repeat that the evil which we are now suffering from is that to which Lord Bacon refers when he says "The rewards of learning are in the hands of the unlearned:" "Præmia sapientiæ penes vulgus." The more you can correct that the better, and diminish the overwhelming and malignant influence of Attornies on our branch of the Profession.

1516. At present one of the best methods of ensuring success at the Bar is for an Attorney's clerk to go from an Attorney's office to an Inn of Court, and be called to the Bar; would not your system still ensure to such a person an undue chance of success in the Profession?—No doubt it would, but that would not be the result of my system. I should not take away the undue chance he has, but I should not add anything to it.

1517. The state of things which now exists is one which may be regarded, perhaps, as undesirable. Your system of doing without any preliminary Examination would not get rid of that objection?—It would not, certainly.

1518. If there were a preliminary Examination, it would, of course, stand in the way of a person of that sort till he had acquired a proper amount of information?—Perhaps, in some degree. Some Attornies can read Latin, I believe. However, I think it a very fair question to consider, but at the same time there would be a great responsibility in saying that no man should be allowed to be a Student except he had certain advantages of education previously.

1519. A Student at Law?—A Student at Law. I think it a great evil that a man, from having been an Attorney's clerk, should come to the Bar, and have chances which other people have not, but my system would not lead to any more of that class being called to the Bar than are so now.

1520. In France, you are aware, they do require before they will allow a man to become a Student of Law, a preliminary Degree, answering very nearly to our Degree of Bachelor of Arts?—I should not be disposed to say that a man might not in England fulfil, extremely well, many of the duties of a Barrister, without being acquainted with Latin and Greek. It would be very desirable that as few of that class should belong to the Bar as possible; but still I would hardly venture to say that a man should necessarily be excluded from the Bar because he had not in early life had an opportunity of learning Latin and Greek.

1521. In fact, you look upon the Profession as consisting of two branches; a practical branch, and a scientific branch?—No, I would unite theory and practice as much as possible. I think the true theory ought to have more weight with men engaged in practice than it has. That I think is most desirable; at present, to say that a man knows the theory of Law is a reproach; ignorance of what an Attorney does not know is a recommendation.

1522. They are two completely different classes in Germany, are not they?—Yes, I put Germany altogether aside in this question in considering what should be done for a great and powerful Profession in a free country. The royal will is virtually absolute from one end of Germany to the other; it is there what James I. wished to make it here. I do not mean to say positively I am averse to requiring from a Student the power of passing a preliminary Examination, but I would not take upon myself to recommend it. I see there are decided benefits which would result from it, but I see a certain amount of hardship belonging to it. It closes an avenue to distinction for the lower classes which I should be sorry to see blocked up, and the benefit sought might be obtained more directly. No Proctor can be an Advocate in Doctors' Commons.

1523. Are you aware that at one time, at the Inner Temple, a certain acquaintance with Latin and Greek was required as a preliminary to becoming a Student?—Yes, I have heard that.

1524. Have you heard that during the time that experiment was being tried, it was found to succeed extremely well?—No, I never heard that; and Students could be admitted elsewhere: it was therefore no test of a general system.

1525. Are there any other suggestions which you are desirous of making to the Commissioners?—The points upon which I particularly insist are what I have said about the Examinations, and also that the Studentships should not be given away in such numbers as they now are.

1526. You would make attendance upon the Lectures on Jurisprudence, or Constitutional History, a *sine quâ non*?—Yes; that and a compulsory Examination are the chief objects which ought to be kept in view, in my opinion. I wish to repeat that I do not mean to express an opinion immoveably adverse to a preliminary Examination of Students, but without more reflection, I should not like to say I was in favour of it.

The witness withdrew.

Adjourned.

* The ὀψιμαθεῖς have been sometimes great proficients; Petrarch could not read Greek, neither could Payne Knight at 22. Alfieri tells us that he could not construe an ordinary Latin sentence at 25, and he learnt Greek after he was 40, so I think did Budæus, and one of the Scaligers. I doubt if either Dunning, or Lord Hardwicke, or Lord Kenyon (not to give modern instances, and there are many), would have passed a preliminary Examination.

Tuesday, 5th December 1854.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

KEITH BARNES, Esq., and WILLIAM STRICKLAND COOKSON, Esq., examined.

K. Barnes, Esq.
W. S. Cookson, Esq.

5th Dec. 1854.

1527. (*To Mr. Cookson.*) The Commissioners are anxious to receive information from your branch of the Profession, on the subject into which they are now inquiring, namely, the best mode of conducting the Legal education of Students for the Bar. Are there any remarks which have suggested themselves to you on that subject?—The subject of Legal education, in our own branch of the Profession, has been for a long time under our consideration. When the Solicitors established the institution of the Incorporated Law Society, they presented a memorial to the Judges, submitting that in their opinion, a great advantage would result to their branch of the Profession if a system of Examinations of candidates for admission on the Roll of Attornies were established. The Judges acquiesced in that view, and eventually certain regulations were made. That was as far back as the year 1835. We believe that great advantage has resulted from those Examinations. The mode in which the Examinations are conducted is this:—There are four Solicitors, who are Examiners for each Term, and a Master of one of the Courts of Common Law. Fifteen questions upon each branch of the Law are prepared and printed. The candidates, on the day of the Examination, are all assembled together in the Hall of the Institution, and the questions are then submitted to them, and their answers, which are written, are carefully examined by the Examiners, and such men as have shown themselves sufficiently acquainted with the different subjects are certified to be proper men to be admitted Attornies.

1528. Are those Examinations in Common Law alone?—In Common Law, Equity, Conveyancing, Bankruptcy, and Criminal Law. There are fifteen questions on each subject.

1529. How long has that system been in operation?—In May 1835 the Memorial was presented to the Judges, and in Trinity Term 1836 the Examinations commenced.

1530. In imposing this as a condition of the admission of members of your Profession, it was upon the decision of the Judges that gentlemen were not admitted till such an Examination had been passed?—Certainly. There is a right of appeal to the Judges against the rejection of Candidates by the Examiners; and a few instances have occurred of such appeals, but the Judges have always confirmed the decisions of the Examiners.

1531. In your judgment, has the institution of the Examination diminished the number of applicants for admission into the Profession?—I find that previous to the commencement of the system of Examination in Trinity Term 1836 the average number of Attornies annually admitted on the Rolls was between 500 and 600, and the number annually admitted in sixteen subsequent years, from 1837 to 1852 inclusive, averaged about 391 annually. There was a falling off in number after the Examinations commenced, and the Examinations probably operated to prevent, to some extent, the application for admission by young men who during their Clerkships had not applied themselves industriously to the study and practice of the Law; but I think that about this time an apprehension began to prevail that the reforms then in contemplation in the practice of the Law would materially diminish the emoluments of Solicitors, and that many gentlemen were thereby deterred from incurring the expense of placing their sons in the Profession.

1532. Do you afford to the Student the opportunity of deriving instruction from Lectures?—We do. The Lectures commenced in the year 1833, about three years before the Examinations were established. We have Lectures on subjects connected with three branches of the Law, namely, Common Law, Equity, and Conveyancing. The Lectures are delivered twice a week, commencing in November in each year.

1533. Lectures are given upon each of those subjects?—Yes.

1534. Is the attendance upon them compulsory?—No; but the attendance is numerous.

1535. The Examination is compulsory, but not the attendance upon the Lectures?—Exactly. I believe great advantage has resulted to the Students who have attended the Lectures. I have had opportunities of knowing, from my own observation, that those who have attended the Lectures have derived great benefit from them.

1536. Do you find any inconvenience to result from your Articled Clerks attending the Lectures, and therefore absenting themselves from Chambers?—No; the hour at which the Lecture is given is after the hours of business.

1537. The Commissioners understand that in your judgment this system of Examination has been very beneficial to your branch of the Profession?—I think so; it has stimulated young men to reading during their Clerkship, and they come into the Profession better prepared than they would otherwise be to discharge their duty as Attornies, and are better acquainted with Legal principles.

1538. Comparing the two systems which now exist, namely the system for the Bar, of having a compulsory attendance at Lectures, and a voluntary Examination, and your system which consists in a voluntary attendance at Lectures and a compulsory Examination, have you formed any opinion which is the preferable mode of instruction?—I am not by any means opposed to the compulsory attendance at Lectures of gentlemen studying

K. Barnes, Esq.
W. S. Cookson, Esq

5th Dec. 1854.

for the Bar, but I think it very desirable, as in our branch of the Profession, that Barristers should be required to undergo an Examination before being called. Means should be used of ascertaining that men have some knowledge of the Law before they are permitted to enjoy the exclusive privilege of practising it. At present, the circumstance of a gentleman being called to the Bar is, of itself, no evidence that he has any acquaintance with the Law. Solicitors are obliged to look out for young Barristers who are not fully employed; and it would, I think, be of great advantage to the Solicitors, and to the interests of their clients, and also to the young Barristers themselves, if the call to the Bar could be relied on as the solemn testimony of able Lawyers that the gentlemen called had been by them ascertained to be really qualified to discharge the important duties which are expected from them. I think, moreover, that no gentleman should be allowed the rank and position of a Barrister who has not qualified himself for that position by the study of the Law.

1539. Have you any system of private Classes in conjunction with the Lectures?—No; I have none in my office, and I do not think it exists in other offices.

1540. The Lecturers have not private Classes?—I believe not.

1541. Have you observed any marked improvement in the general information of those who have been admitted to your branch of the Profession since the institution of those Examinations?—I think, decidedly, those who are admitted have a considerable acquaintance with Common Law, with Conveyancing, and with Equity; they must pass in all the three branches. The Master of the Rolls, when he appointed us to examine the applicants for admission to the Roll of Solicitors in Equity, required that we should not grant a Certificate to any applicant who did not pass the Equity Examination, though he might be qualified in other branches.

1542. Equity was made a *sine quâ non*?—Yes. The Common Law Judges made Common Law a *sine quâ non;* and within the last two or three years, feeling the great importance of Solicitors being well skilled in Conveyancing, we have induced the Judges to allow us to make that also a *sine quâ non.*

1543. Do you reject any Candidates?—Some are postponed every Term.

1544. Do they present themselves again after a certain time?—They do.

1545. And occasionally pass after their first rejection?—Yes.

1546. They must pass in Common Law and Equity, must not they?—Yes; and by an alteration made two or three years ago, they must also pass in Conveyancing.

1547. Your Examination is confined to Legal subjects, is not it? you do not examine Students in History, do you?—No; the subject of an Examination in general Literature has been under the consideration of the Council, and a Committee was appointed to consider the subject, and that Committee, of which I was a member, made a report to the Council, pointing out the advantages of having an Examination in general Literature previously to their being articled, and proposing one in Classics, Mathematics, and Ethics, in the French language, and English History. The Council received the report favourably, but thought some modifications desirable, and the report was referred back to the Committee. Hitherto the Council have not come to any final decision.

1548. Are you a member of the Council?—Yes.

1549. What was the last step taken in that matter?—It is still pending. Before the Long Vacation, the subject was discussed in several meetings of the Council, and the discussions resulted in a reference back to the Committee to consider suggestions made by the Council. There is a considerable difference of opinion in the Council, but I think a majority are in favour of an Examination.

1550. Is there any Certificate as to character required?—Always; every gentleman applying to be admitted must bring a Certificate from the Solicitor with whom he has served, that he has diligently and faithfully employed himself during Clerkship; to his moral character the master also certifies. Instances have occurred where, in consequence of representations made to them, the Examiners have felt it to be their duty to make strict inquiry into the moral conduct of Candidates with reference to particular transactions.

1551. You say that your Body are not unanimous with reference to the preliminary Examination; are they unanimous, or nearly so, with reference to the advantage of continuing the existing system?—I believe they are unanimous.

1552. You have no mode, have you, of excluding a person from the Roll who has shown great ignorance?—Not after he is once admitted on the Rolls; his removal must be the act of the Judges.

1553. Nor for bad conduct?—Several cases have occurred in which we have thought it necessary to bring the misconduct of Attornies before the Court.

1554. It is a difficult proceeding even then, is not it? It is not easy to get an Attorney struck off the Rolls?—No; and it ought not to be so.

1555. It is not easy to get a man of bad character struck off the Rolls?—If you establish that he has been guilty of gross misconduct, then the Judges will remove him from the Rolls.

1556. Would it be better, in your opinion, to invest the body of Attornies at large with a power to regulate the admission or exclusion of their own Members?—Although I have no doubt that if such a power were vested in the Council of the Incorporated Law Society, they would exercise that power with care, caution, and strict impartiality, yet I

K. Barnes, Esq.
W. S. Cookson, Esq.

5th Dec. 1854.

think it is desirable so important and serious a question as that of depriving a professional man of his means of livelihood, should be submitted to the highest authorities. The proceeding is a more solemn one, and carries greater weight. In all cases of applications for re-admission, or for leave to renew Certificates, the Judges require that notice should be served on our Secretary, that we may have the opportunity of being heard.

1557. Your Body is incorporated by Charter?—It is; and we are the Registrars of Attornies, and their annual Certificates are issued on our Certificates.

1558. Having a Council to regulate it, you have the means of excluding those who misconduct themselves from your Society?—We have; and occasionally, where we have considered that the misconduct of a Solicitor, a member of the Society, did not entitle us to apply to the Court to remove him from the Roll of Solicitors, we have felt ourselves justified in removing him from our own Body.

1559. In your judgment, would it be consonant to the wishes of the Members of your branch of the Profession, that there should be a compulsory Examination of gentlemen for the Bar?—I cannot venture to give an opinion of the wishes of the Profession at large; a great many approve of it.

1560. What is your view?—I think great advantages would result from it. We should then have a Certificate that any gentleman who was practising at the Bar was considered by very competent persons able to practise with advantage to the public. I am under the impression that formerly Examinations, or something equivalent to them, did take place in the Inns of Court. The Commissioners are probably aware that formerly it was necessary that Attornies and Solicitors should be Members of one of the Inns of Court, or of Chancery, and should be examined. Regulations were from time to time made by the Benchers of the Inns of Court, limiting the privileges of the Attornies in respect of membership, and eventually they were excluded from all the Inns of Court, and of course were not entitled to resort to their Libraries, or to have any advantage whatever from the Inns of Court. The Inns of Chancery seem to be composed almost exclusively of Members of our branch of the Profession. So far as I know, they have none of them Libraries; they none of them provide Lectures, and they do not seem to contribute in any way, in their corporate character, to the improvement of the Profession, except that as it may be felt to be some distinction that a man should be invited to become a Member of one of those Inns of Chancery, Solicitors may desire to render themselves worthy of the distinction.

1561. You are aware that there is a formal proceeding, or was till within a year or two, of a Reader being sent from the Temple to one of the Inns of Chancery?—He found no Students to lecture to. Being excluded from the Inns of Court, and their Libraries, our branch of the Profession felt it very important that other facilities should be afforded to young men of studying their Profession, and with a view to having a Hall, and Library and Lectures, this Institution of ours was established by the Solicitors, at an expense to themselves of upwards of 90,000*l*., and they have contributed annually large sums to its support.

1562. You have a large Library?—Which has cost us a large sum of money. We pay the Lecturers from our funds, receiving a small sum from the Students who attend. A very large proportion of our Members personally derive no advantage from the Hall or from the Institution, but they have contributed largely to the erection of the building and the purchase of the Library, and they continue to contribute annually to the Institution, from a conviction that the Institution is a valuable one to the Profession.

1563. Though performing extremely useful functions, you are in fact a voluntary Society?—We are. We have felt that if there are any funds either connected with the Inns of Court or the Inns of Chancery, which could be fairly applied to the purposes of Legal education, the claims of our Society, and of our branch of the Profession, should be considered. We have lost all the advantages connected with the Inns of Court; we are no longer connected with them. I am quite ignorant as to the fact whether there are any such funds or not; but if there are such, we certainly should ask to have our claims considered. I believe our Institution has been of very great value to the Profession and the public.

1564. Have you made any proposal of this kind, that the Articled Clerks of Solicitors should be at liberty to attend those Lectures, which are attended generally by Members of the Inns of Court?—I am not aware that we have made any proposal of that kind; our Lectures began several years before those of the Inns of Court. I think the Lectures which we give in our Institution are well adapted to the gentlemen who are studying for our branch of the Profession.

1565. Can you state at all what is the cost of the education of an Attorney?—I think in London the fee paid to a Solicitor on a Clerk being articled is 300 guineas; the stamp upon the Articles was, till last year, 120 guineas; it is now reduced to 80 guineas. He has to serve five years; he mixes among gentlemen, and must support the position of a gentleman, which is a considerable expense. When he has served five years he has to be admitted. There is a Stamp upon the admission, which is 25*l*., and there are some other fees connected with his admission. Some small fees also are paid upon the Examination.

1566. Does he pay for the Lectures?—He contributes something to the Lectures.

1567. That would make altogether, in round numbers, about 1,000*l*.?—I think more Many gentlemen, after they have served their Clerkship, incur the further expense of

K. Barnes, Esq.
W. S. Cookson, Esq.
5th Dec. 1854.

going into the Chambers of a Conveyancing Barrister, or a Special Pleader, for six or twelve months.

1568. In fact, the necessary cost of the education for an Attorney is larger than that for a Barrister?—Considerably. Besides paying for the Stamp on his Articles, and the Stamp on Admission, the Solicitor has to pay an Annual Certificate Duty.

1569. Moreover, you have a preliminary Examination before a young man is admitted to be an Attorney, which there is not in the case of a Barrister?—Just so. With respect to the expense incurred by a Solicitor, we have always felt it to be a great grievance in our branch of the Profession, that we had a treble taxation, which I believe no other class of men in the kingdom are subject to. A tax of 120*l.* upon being permitted to enter the Profession at first, a Stamp of 25*l.* upon our admission, and when we had paid both those, we were not permitted to practise without an annual Certificate, which used to cost us 12*l.*, but is now reduced to 9*l.*

1570. Those all act advantageously to the body of Attornies in one respect, by limiting the Profession?—There is not much advantage I think in that. The object of requiring the Stamp on Articles was, I believe, declared by Mr. Pitt to be to increase the respectability of the Profession; and when we had an interview some little time ago with the Chancellor of the Exchequer, we submitted to him that a much better means of improving the character of the Profession would be to have the money that is now paid for Stamp Duty upon the Articles expended upon the previous education of the Clerk.

1571. Is not it the case that the Profession of an Attorney has very much risen in importance and respectability compared with what it was 200 years ago, so far as we have any means of knowing?—That is a matter of history; but I can hardly imagine that the public could, at any period, have got on without the assistance of intelligent, well-informed, professional men in the position of Solicitors.

1572. Is not an Attorney now equal to a great many operations that a Barrister used formerly to perform?—I think the duties of the Barrister and the Solicitor are tolerably distinct. I am not aware that at any period the Attorney was a mere clerk. As far back as the 20th Henry III. (1235) a statute was passed (c. 10) empowering suitors "to freely make his Attorney to do those suits for him;" and by the statute of 15 Edward II. c. 1. (1322), there was reserved "to the Chancellor for the time being his "authority in admitting Attornies, according to whose discretion they shall be admitted, " and to our Chief Justices, as heretofore hath been observed in the admission of Attornies." Again, the Statute 4th Henry IV. c. 18. (1403) alluding to mischiefs arising from Attornies "ignorant and not learned in the Law as they were wont to be before this time," ordained and established "that all the Attornies shall be examined by the Justices, and by their " discretions their names put in the Roll, and they that be good and virtuous and of good " fame shall be received and sworn well and truly to serve in their offices." "And if any of " the said Attornies do die or do cease, the Justices for the time being by their discretion " shall make another in his place which is a virtuous man and learned." And in 1632, a Rule was made by the Court of King's Bench that "None hereafter shall be admitted to " be an Attorney of this Court unless he have served a Clerk or Attorney of this Court " by the space of six years at the least, or such as for their education and study in the " Law shall be approved of by the Justices of this Court to be of good sufficiency, and " every of them admitted of one of the Inns of Court or Chancery." In 1654 there was another Rule, "That all Officers and Attornies of the Court be admitted of some Inn " of Court or Chancery, by the beginning of Hilary Term next, or in the same Term " wherein they are admitted Officers or Attornies; and be in Commons one week in every " Term, and take Chambers there, or in case that cannot be conveniently, yet to take " Chambers or Dwellings in some convenient place, and leave notice with the Butler " where their Chambers or Habitations are, under pain of being put out of the Roll of " Attornies." It appears that at an early period the Body was an important Body, so important that the Legislature and the Judges considered it necessary to make very stringent regulations in reference to their qualifications. I have collected this information from a work, published in 1839, by Mr. Maugham, the Secretary to our Society, entitled, " A Complete Collection of the Statutes and Rules and Orders of Court relating to " Attornies, Solicitors, and Agents, from the earliest to the present time."

1573. Do not you think that Attornies now are a much better educated body of men than they were formerly?—I have no doubt that there are in our Profession much better educated men than there were 200 years ago.

1574. A compulsory attendance on the Lectures would scarcely be applicable to your branch of the Profession, on account of many young men residing in the country?—Yes; I have known many instances of young men coming up merely to be examined and admitted.

1575. Would it be possible for you to give the Commissioners an approximation to the proportion of Students who can and do attend the Lectures, as compared with the number who go in for Examination without attending the Lectures?—I have stated the average number of Attornies annually admitted from 1837 to 1852 inclusive to be about 391. The following table shows the number of Articled Clerks who have attended the Lectures from the commencement in 1833 to the end of the session 1853-4. The average number is 205, and it is to be borne in mind that of the numbers annually admitted on the Roll of Attornies about seven tenths have served their Clerkships in the country, and a great

many of those come up to town to be examined and admitted, and have no opportunity of attending the Lectures.

In the year	1833–4	- -	325
„	1834–5	- -	228
„	1835–6	- -	193
„	1836–7	- -	242
„	1837–8	- -	240
„	1838–9	- -	229
„	1839–40	- -	205
„	1840–1	- -	181
„	1841–2	- -	155
„	1842–3	- -	198
„	1843–4	- -	206
In the year	1844–5	- -	177
„	1845–6	- -	169
„	1846–7	- -	201
„	1847–8	- -	199
„	1848–9	- -	173
„	1849–50	- -	186
„	1850–1	- -	194
„	1851–2	- -	195
„	1852–3	- -	207
„	1853–4	- -	206

1576. (*To Mr. Barnes.*) In your judgment, has this system of the compulsory examination of the Students of your branch of the Profession been beneficial to the Legal character of those engaged in that branch?—Certainly.

1577. You do not believe that any serious diminution in the number of Applicants has taken place in consequence of your compelling them to undergo this Examination?—I do not.

(*Mr. Cookson.*) I may be permitted to state that those who have taken the Degree of Bachelor of Arts at one of the Universities are entitled to admission after a service of three years' Clerkship. I have in several instances, where friends of mine have consulted me about their sons, recommended that they should graduate at one of the Universities before being articled, and as Examiner, I have had an opportunity of seeing how B.A's. come out of our Examination, and the result has been very satisfactory. Some of the best Examinations have been of men who had taken the Degree of B.A., and applied to be examined at the end of the three years, so that they had done more in three years than others have done in five.

1578. (*To Mr. Barnes.*) What is your view of the advantage of a preliminary Examination before admitting Students to be articled?—I am decidedly in favour of it. Some difficulties would attend the practical working of it, but I think that they can be obviated. I may add that many Members of the Council of our Law Society who, *ex officio*, are appointed Examiners under the present system, are desirous that the merits of the several Candidates who distinguish themselves in the Examination should be tested and recognized by marks of honour, as for instance, a Medal for the most successful, and an Alphabetical Class for those who distinguish themselves above the ordinary run of others, who may yet be entitled to the Certificate of fitness. An impression prevails amongst some of the Examiners that the Judges might not approve of it, but in the present day I rather anticipate the contrary.

1579. Is it your opinion that the course of Legal education which has now been adopted for the Bar, as far as it goes, has been beneficial?—I do not doubt that it has.

1580. Comparing the advantages of a compulsory Examination with those of a voluntary Examination, to which should you give the preference? You are doubtless aware that the system at the Bar is one of a compulsory attendance at Lectures, and a voluntary Examination?—I should rather reverse that, and make the attendance at Lectures voluntary, but the Examination compulsory. If the admission of a Barrister had no other effect than that of entitling him to practise in Court, it might perhaps be assumed that the Attornies would find out and employ the best men, who would therefore rise according to their talents, and the incompetent men would fail in obtaining employment; but considering Barristers of a few years standing have by statute the monopoly of many honourable and lucrative employments, I think that that alone ought to induce the requirement of a compulsory and strict Examination.

1581. You would make the education of an Attorney almost as good as that of a Barrister?—In its way I would. But I consider that the education required for the one branch of the Profession is to some extent of a different character from that required for the other branch. The Barrister ought to have a profound knowledge of the particular branch of the Law to which he devotes himself, whether it be Common Law, Equity, or Conveyancing, whilst the Attorney should have a general knowledge of the Law as administered in all those branches, and of the application of the Law to the various circumstances in which his advice will be sought by his Clients in the course of his professional practice. The Barrister practising in the Courts of Common Law is not consulted upon a question of Equity or Conveyancing, nor is he expected to be able to give advice upon it; but the Attorney must be prepared to give advice and to transact business in Common Law, Equity or Conveyancing. The most eminent and successful Barrister will be he who has the greatest number of Clients litigating their cases in Court, whilst the Attorney who with an extensive practice gives that advice which prevents his Clients from going to Law, and so tries or defends very few actions in Court, as compared with the extent of his practice, will be the safest adviser, and will best perform his duty to his Clients and to society. The two branches of the profession always have been, and in my opinion ought to remain, distinct.

(*Mr. Cookson.*) There is a great advantage in having Solicitors highly educated. Among their clients are the most highly educated people in the country, and to be really efficient

K. Barnes, Esq.
W. S. Cookson, Esq.

5th Dec. 1854.

advisers, they must be on confidential terms with their Clients, and must know a great deal of the private history of families.

1582. You said you thought that the two branches of the Profession were distinct, but do you not instruct your own branch of the Profession in pretty much the same subjects that the Bar is instructed in?—We do; but I think the practice of a Barrister and of a Solicitor is quite sufficiently distinct to constitute two branches of the Profession.

1583. Have your Examinations a view to the practical part of a Solicitor's business, or are they generally theoretical or scientific Examinations in the Law, so as to involve a theoretical and scientific acquaintance with the Law?—Their object is to ascertain that the candidates are qualified to practise as Solicitors: therefore, to a great extent, the Examinations are practical.

1584. Does not it follow that if you make Solicitors equal to Barristers in point of attainments, the Client will have to pay for a double agency, both very highly skilled men, and of a certain position in society?—If a client has to consult his Solicitor, the circumstance of that Solicitor being a very highly educated man, a well-informed man on the subject of the Law, is really a saving of expense to the Client. He would often be able to give him an opinion which would render it unnecessary for Counsel to be consulted, and where it might be necessary to consult Counsel, a skilful, well-educated Solicitor, a man who thoroughly understands his business, would be able to present the subject more clearly, fully, and satisfactorily to the Barrister.

1585. In all those cases where an application to the Court is necessary, that argument does not answer the question. A well-educated Solicitor, not being able to go into Court, if you make him as well educated as a Barrister, it entails upon the Client the having to pay for the agency of two such highly educated men?—No; a Solicitor, however highly educated, is only permitted to make certain specified charges which the humblest Practitioner is also entitled to make.

1586. It is clear, is it not, that highly skilled men who have been expensively educated, must require a commensurate reward for their services?—A Solicitor does not for any specific business get more in consequence of his being highly educated, or of his being a good master of his Profession.

1587. Surely the tendency of such a system is that instead of simplifying Legal procedure, you have the interests of two considerable bodies of men to regard, who must be opposed to such simplification?—I think not; I know that Solicitors have applied themselves zealously to the simplification of Legal procedure, though the consequence has been that for their services they have not been sufficiently remunerated. I think the changes which have been made in the practice of the Court of Chancery have left Solicitors without adequate remuneration. I consider that there is not sufficient pecuniary advantage to a Solicitor, at present, in being engaged in Chancery Suits. I had rather be without them.

1588. Assuming a division of labour to be desirable, you think it would be also desirable that each branch of the labourers should be as expert as possible?—Yes.

1589. And you think that this species of division of labour is desirable?—Yes. Whether it may be necessary or desirable to have that marked difference in the outset, whether all might be Solicitors, or all Barristers, is a question in my mind of secondary importance. I believe that if all were at liberty to practise in both branches of the Profession, they would naturally and inevitably separate themselves. Those who were qualified to act as advocates, would go into Court, and would be employed by those not so gifted, who would do more of the work now transacted by Solicitors.

1590. Would not that be a much more eligible arrangement for the Client than the present, according to which a Solicitor, however gifted, cannot transact the most common matter of business in Court, without calling in the aid of a person perhaps less educated than himself?—I think if you had but one Profession, it would not be possible for a man to practise extensively in both branches. He must eventually confine himself to Court or to Chambers.

1591. Might not it be done by means of Partnerships, one Partner taking the Court business, and the other the Chamber business?—They must both gain enough for a livelihood, of course, and the practice of the accomplished Advocate would not be confined to the business of his own firm.

The witnesses withdrew.

R. Lowe, Esq., M.P.

ROBERT LOWE, Esq., M.P., examined.

1592. You have been kind enough to attend from the Society for Promoting the Amendment of the Law. The Commissioners are very anxious to have the views of the gentlemen who are members of that Society on the subject of their inquiries, namely, the best means of promoting Legal education. Will you state anything which may have occurred to you on the subject?—I believe the opinion of the Law Amendment Society certainly my own opinion is, that there should be an Examination before a person is admitted, to become a Law Student, such as once was adopted at the Inner Temple for the purpose of ascertaining his attainments in general knowledge, and showing that he

has received the education of a gentleman, and then that there should be another Examination compulsory on him, before he is called to the Bar.

1593. Do you approve of the system of Lectures with either voluntary or forced attendance?—I have not seen the practical working of them with regard to the Law, but I have myself had a good deal of experience in teaching in the University for many years, and my impression is, that to the superior class of Students compulsory attendance upon Lectures is generally a drawback and an evil. To inferior Students, such Lectures may be, if they choose to attend, some advantage; but it is a system in which you sacrifice the better men to the more ordinary ones. A clever man will employ his time better in his own Chambers than in listening to a Lecturer, who must necessarily pitch the tone of his instructions to suit, not the two or three clever ones who may be present, but the great majority of his audience.

1594. The Lectures, to be useful, must be adapted to the capacity of all present?—Yes: the Lecturer must not be speaking to the best two or three men in his Class.

1595. What should you say would be the proportion between those persons whom you describe as persons of superior capacity, and those who, you say, would be likely to obtain some benefit from the Lectures?—I cannot say; the former would certainly be the minority. I might add, though I am an advocate for instruction, yet I believe if you make the Examination sufficiently stringent, if there be any prize in life connected with that Examination, Students will be found to prepare themselves for it even without the intervention of any system of paid Lectures whatever. I was a Private Tutor in Oxford, and I had the teaching of some of the best Students that took Honours in the University, who were sent to me from their own Tutors, licensing their absence from their own Lectures; not because they were not quite as able, or more able than myself, but because their Lectures were of necessity required to be more popular.

1596. You are aware that the present system of Legal Education permits parties, who choose to submit themselves to the Examination, to escape attendance on the Lectures. As far as it goes, you would not think that regulation a bad one?—So far as it goes, it is a good one in my opinion.

1597. Where a Student knows what are the subjects on which he will be examined, is not it easy to cram for that particular Examination?—It will all depend upon the Examiners. If, as was too much the case at Oxford when I was there, the Examinations are in the hands of the Private Tutors, or other persons who prepare candidates for them, even supposing those persons to be as fair as possible, it will degenerate into a system of cram, but if the Examinations are placed in the hands of persons who are totally disconnected from the process of catechetical or minute instruction, I think it is a reproach to the Examiners if mere cramming can attain success.

1598. Would you think it right that a Degree at either University should operate as a dispensation from the preliminary Examination which would be otherwise required for the admission of the Student?—That would be a question as to the standard, which I hardly feel competent to give an opinion on. I am rather disposed at present to think that in the case of a Student for the Bar, which is a highly intellectual Profession, and which possesses a monopoly of a great many employments in this country, one might ask for more than the qualifications for a simple Degree in a University.

1599. Have you considered at all the possible effect of those two Examinations upon the number of parties desirous of becoming Students for the Bar, might not they possibly have the effect of excluding some who now attend the Inns of Court, such as country gentlemen who have no intention of ultimately practising in the Profession?—My own impression is, that there would not be much danger of excluding country gentlemen; no doubt some would be excluded, but I think others would be attracted. In the case of a country gentleman of good abilities who intended to go into public life, if he could obtain by those means a certificate of considerable competency in a knowledge of the Law, it would be an object of great desire. He might regard it as the passport to office in future, and so far from diminishing the number of such Students, which, however, I think is not very large, it would have a tendency to increase it.

1600. Would you divide the Examinations or either of them into two branches, one for Honours, and the other a pass Examination?—My opinion is against the system of Honours for the Bar. My impression is, that after the age at which a young man has passed through College, and has had an opportunity of competing there, there should be a high test of efficiency, but I should think it better to avoid a competition for Honours, and to launch them all fairly in the Profession without it; I speak as I feel myself. It would have been a matter of consideration with me if I had been seeking to become a Barrister under the present system. I should have come from the University, having gained some distinctions there, and it would not have been agreeable to me that I should have had the alternative of attending Lectures or competing for Honours. A man who has gained a certain amount of distinction of that kind, does not wish to put it to risk a second time.

1601. You appear to lay considerable stress upon private tuition. Do you mean to speak of private tuition as a necessary element in the education of all classes and descriptions of Students?—I would say that it entirely depends upon the nature of the Examination. At Oxford, there are two classes of Students, to whom private tuition is absolutely necessary; these are the very best and the very worst. A man hardly ever goes up for the highest Honours and obtains them, without more or less of private tuition.

R. Lowe, Esq., M.P.

5th Dec. 1854.

The least prepared require it, to enable them to pass; the middle class might, under a well digested system of Examination, pass without any private tuition.

1602. Private tuition is quite distinct, in your mind, from Lectures?—I am opposed to compulsory Lectures of any kind.

1603. Your answer implies that the Examination should be a thoroughly good test of the qualification of the Student?—I assumed that the Examiners will discharge their duty. I wish to be understood that I am in favour of their being Lectures for those who like to attend them, but I would not render attendance upon them necessary.

1604. At Oxford, you have of course the elements and the means of a thorough examination. Would it be so easy in London, from an occupied Bar, to obtain qualified Examiners;—That enters upon another question, to which I have not hitherto applied my answers, namely, how you are to organise such Examiners. I shall have a word or two to say upon that subject presently.

1605. Where there are not the means of securing a very good Examination, compulsory Lectures do secure a certain amount of information do not they?—I do not think so. I think it is very possible for a man to attend Lectures and learn nothing from them. Most people who look back, I imagine, will find that a great portion of the time they have spent in hearing public Lectures has not been very profitably occupied.

1606. What is your opinion of that branch of the present system of Legal education which consists in Private Classes: do you think it is a desirable mode of instruction?—Yes: I think they should be open to those who like to avail themselves of them; to a poor Student, for instance, who has good abilities and may be deficient in the means of obtaining books, and in friends to advise him, they might be very useful.

1607. In addition to the advantage to a poor Student, there is this difference between Classes and the ordinary mode of instruction—namely, that of reading with a Pleader, that you get a number of young men together who take an interest in the subject, and who can discuss it among themselves?—That, I think, is very valuable. The old system of putting cases I think might be revived with great benefit.

1608. You said you would not have an Examination for Honours? would you make the standard of Examination for admission to the Bar a very high one?—I would not allow a man to be called to the Bar, unless he gave some evidence of sufficient capacity to take a fair part in the administration of justice, either as an advocate or a judge, and showed a considerable knowledge of his Profession.

1609. At present, reducing the question to a practical one, there are five Readers. There is the Reader upon Constitutional Law and Legal History; there is the Reader upon Equity; there is the Reader upon Real Property; there is the Reader upon the Civil and the Roman Law, and the Reader upon the Common Law. The education at present is divided into those five branches. Would you require any considerable degree of knowledge from the Candidate for admission to the Bar upon all those or some of them?—The Examination seems to me to be pitched too high; I would rather make it of a more practical character, and not attempt such a wide range. I should have thought that the Constitutional Law and the Civil Law might be dropped, and perhaps Conveyancing might have been made an optional acquirement; I am not prepared to say I would ask so much, but what I did ask for, I would require to be known thoroughly, and would shape the Examination so as to test not only the man's knowledge, but the powers of his mind and his general capacity.

1610. The preliminary Examination which you recommend would secure the Bar against the intrusion of absolute ignorance, and after that had been passed you would confine the Student to strictly professional studies, in the prospect of the second Examination?—Yes; I would leave those higher branches to option. I would not say that a man should not be allowed to practice at the Quarter Sessions, unless he was a proficient in Constitutional Law.

1611. You would not require anything like proficiency in the philosophy of the Law? No, I would not. I think in any profession which holds out a prospect of sufficient prizes, there will always be an adequate number who will strive after and obtain a high degree of excellence.

1612. If anything is to be done to advance Legal education, should you say that it ought to be in the way of promoting those branches of it which are not exactly marketable?—I do not see that; it must be remembered that the teaching of an Advocate, or even of an English Judge, is only a small part of Legal Education. We are every session creating places which can only be filled by Barristers, and the Colonies suffer much by the incapacity of gentlemen sent out to fill high posts. I have known a Colonial Judge seem ignorant of the difference between an Action upon the Case and an Action in Trespass, and the form of the Declaration.

1613. You recommend a preliminary Examination before a man is permitted to become a Student for the Law; would you confine that Examination to the Classics, or would you give it a more extensive range?—I should like to make it such that no person who has received what may be called a liberal Education should be excluded by means of it; therefore I would not confine it either to the Classics or Mathematics. If a man has attained a certain proficiency in liberal knowledge, I would say that that should suffice.

1614. You would include probably one of the learned languages?—I should say that a man could hardly pursue the study of the Law without a knowledge of Latin.

R. Lowe, Esq., M.P.

5th Dec. 1854.

1615. Would you disapprove of introducing into this preliminary Examination any more philosophical or general view of the Law, by way of enlarging the mind of the Student and leading him to consider the subject of Law in general?—I would leave it optional. My notion is that a man should send up the subjects he considered himself competent to pass an Examination upon, and that he should be examined in those. If a man understood the German language, I would not exclude him from an Examination in it, and let it count in his favour only to show that he has had his mind cultivated and his faculties developed.

1616. You would not demand any qualification which would qualify a man for the study of Law specially?—I would rather keep the two things apart if possible. A man might be a very elegant scholar and have studied the Civil Law; I would not exclude him from the benefit of that. Perhaps I may be permitted to say here, that it would be the greatest possible advantage to us, who are now framing rules for the Examination of the Civil Servants in India, if there were any body constituted to which we could delegate the task of examining them. It is our opinion that every Civil Servant of the East India Company should go out with some knowledge of the principles of Law, but we are at a great loss for some means of examining them; we shall have to create a machinery for the purpose.

1617. Will you have the goodness to state your views with respect to the Examinations, and how you would have them conducted?—That involves the question as to the Inns of Court. My own impression is, that the Inns of Court are as at present constituted a University in a state of decay. They are in the same position, as I understand it, as the University of Oxford was at the end of the last century, when the University had virtually delegated the power of conferring a degree to the Colleges, the consequence of which was that the Colleges, whether from competition among themselves or having no sufficient motive, had brought the thing down to the very lowest point; then, in the beginning of this century, the University was as it were re-constituted, and the Examination re assumed by her, and from that moment the standard of Education has risen. Applying that to the Inns of Court, what is needed is some central authority to confer the degree of Barrister, something answering to the Senate of the University of London, or to the governing body in Oxford or Cambridge. I would not allow the Colleges, analogous to which I consider the Inns of Court to be, to have the power of conferring a Degree; the power ought to be given to some central body composed out of them, but not identified with any one of them.

1618. Would you have a body which should be elected by them?—I have not particularly thought of that, but I think the four Inns of Court might appoint such a body, in which should be vested the power which was originally vested in the Judges, of calling to the Bar, and which they delegated to the Inns of Court. To that I attribute the present state of the matter.

1619. You think that such a body would be able to do considerable good in those departments of the State?—Yes; I think Legal Education is a much larger question than the education of the Bar, or even of the Bench. I think it is exceedingly desirable that every English gentleman who is independent, and whose time is at his own disposal, should be educated in Law to a much greater extent than is now the case.

1620. Is it your opinion that an education for the Law should be necessary to every public servant?—Perhaps that would be too great a change to bring about, but it is the sort of thing to which I would point. It is very desirable that every one should know something of the law under he lives, and which he has to obey.

1621. Supposing the University to which you refer were permitted to confer a degree which should be equivalent to the position of Barrister-at-Law, allowing a person who was anxious to take that degree, but had no desire of practising, to escape certain fiscal payments which would be attendant upon leave to practise, would any advantage be derived from that, in your opinion?—I do not see any objection to that, if the Chancellor of the Exchequer has none. The protection to the Profession which I should look to would be a good standard of qualification, tested by a well organised examination.

1622. Are there any other observations which occur to you upon this subject?—I consider that the general feeling which there is against self-elected bodies applies with some force to the Inns of Court. I think the Inns of Court would be more in harmony with the feeling of the Bar generally if the Benchers were not self-elected. One other matter, though a small one, I would take leave to mention. I am a member of Lincoln's Inn: I went to Australia, without, I am afraid, thinking about my Commons; and when I returned, after eight year's absence, I was welcomed to my native land by a bill of 48*l.*, for my absence from Commons. Of that, however, I do not complain: it was my own oversight. I paid this bill, not wishing my sureties to be annoyed; and then I thought I had paid enough. At last, when I ceased to be a practising Barrister, I made an application to see whether I might not be allowed to cease to pay, as is the case at the University; but I was informed that there was no means of my being so, but that I must pay for the remainder of my natural life. Now I think that is a great hardship. With respect to Legal Education, I may add, that in Australia, when I was there, we found that young men, in order to practise in Court, would require to come home to eat their Terms in England. It worked very badly; they came home without funds, and were

R. Lowe, Esq., M.P.

5th Dec. 1854.

very apt to get into mischief. We passed an Act by which we substituted an Examination, which we found to be satisfactory. We did not ask any questions as to where the young man had been; he was required to produce a certificate of moral character, and to be examined in the classics and mathematics, or something of the kind, and then to be examined in his competency in the Law. The Examination was placed in the hands of the Judges, who delegated Examiners for the purpose. It has been taken advantage of in some cases, and has worked very satisfactorily.

1623. Have you ever thought of the question, how young men in India should be called to the Bar?—No; I have not. I may say, however, that I should not object to offer them an Examination at once, and if they could pass, let them be called to the Bar, without any further obstacle.

1624. The Professions of Attorney and Barrister are kept distinct in Australia, are not they?—In New South Wales and in Victoria, but not in Van Diemen's Land, nor in South Australia.

The witness withdrew.

G. W. Hastings, Esq.

GEORGE W. HASTINGS, Esq., examined.

1625. You have heard the observations which Mr. Lowe has made. Have you any additional suggestions to offer?—I can corroborate what Mr. Lowe has said with respect to the opinions of the Society for Promoting the Amendment of the Law. The Society has published three Reports. What Mr. Lowe has stated is embodied in those Reports, only they are rather more diffuse in their language. Perhaps I may be permitted, as Mr. Lowe has done, to state one or two grievances, though they are not of much importance. One is respecting the Library of the Middle Temple. I belong to the Middle Temple, and I am rather addicted to reading old books, such as books of antiquities and so on; but I find great inconvenience from the state of the Library. I suffered from a serious illness from a cold which I caught in the Library, which is a cold and draughty room, quite devoid of comfort. I think that there ought to be some alteration in that respect. Then, again, there is one regulation in the Library which, as far as I know, has not been sanctioned by the Benchers, which is entirely arbitrary, and which is a very bad one, which is that no Barrister is allowed to take out a book from the Library. A Bencher is allowed to take out a book, but he is not allowed to lend that book to a Barrister. On one occasion I was very anxious to obtain a book out of the Library which was of great value to me. I wished to compare it with an old manuscript which the Delegates of the Press at Oxford had asked me to go through. After I had had the book a short time, it having been lent to me by a Bencher, the Sub-Librarian sent me a message, desiring that I would return it, as no Barrister was permitted to have a book from the Library. I went to him and remonstrated, and stated the circumstances of the case; but it was of no use, and I was obliged to give it up. I had to procure the book from Germany to get through that manuscript, though it was lying in the Library of my own Inn, towards the support of which I had paid and am paying. I think that every Barrister should be allowed to take books out of the Library, just as every Master of Arts at Oxford and Cambridge takes books out of the University Libraries.

1626. You would not extend the permission to obtain those books, would you, to the common books in the Library?—No, not to the Reports nor to the common Text Books. I suppose the book I alluded to has never been looked at since I referred to it.

1627. Have you attended to the existing state of Legal Education? Do you think what has been done to promote it, as far as it has gone, has been an improvement on the former system?—I think it is an improvement in some degree, as at any rate you have obtained by the change some good Lecturers. I do not think, however, there will be much good done without a compulsory Examination.

1628. Do you agree with Mr. Lowe in thinking that the Examination for admission to the Bar should include merely what may be termed technical or professional knowledge?—No, I do not. I should be inclined to have something in the nature of what a "little go" is at the University; that is, I would have a previous Examination before the Pass Examination; and it would be very desirable, if you required in that Examination a certain acquaintance with the Civil Law or any wide subject of that kind involving the general principles of Law. I graduated in Law at the University myself, and have known a good many men who have done so, and I think they have derived advantage from it.

1629. Do you think the study of the Civil Law and of General Law would be a means of effecting an improvement in the minds of practitioners at the Bar generally?—I think it would.

1630. Notwithstanding the different bases upon which the two Laws rest?—I think our Law rests to a great extent upon the Roman Law. I think the study of the broad principles of the Roman Law tends to enlarge a man's mind, and makes him regard the science in a way which is very desirable.

1631. With respect to the Law of Contract, would not the principles of the Roman Law be of considerable use in directing the judgment of the Bar as applied to the English

G. W. Hastings, Esq.

5th Dec. 1854.

Law?—Yes; I have studied the Roman Law a good number of years myself, and I think I have derived great advantage from it.

1632. What do you think is the opinion of the Society you represent generally with respect to confining the Examination to strictly professional subjects?—I should think they would not agree with Mr. Lowe generally, though of course it is very difficult to answer for upwards of 300 gentlemen. There is one point on which I would venture to make an observation. I think there should be some more summary power of either refusing admission to the Bar or excluding afterwards men who behaved improperly. I think the importance of that is felt very much among the junior Barristers. I can mention one instance of what I mean. I know a case where a man is positively an Inspector of Police, and is a Barrister. He was in the Police Force when called, and is so still. The Sessions Mess of the county in which he was stationed sent up a requisition to the Benchers of Gray's Inn, begging them not to call him, and stating as a reason that they did not believe he was going to practise as a Barrister, and they thought it was a degradation to them for a man to be able to call them his learned friends who was absolutely in a blue coat with bright buttons. The Benchers never sent us any answer to the requisition, but they called him to the Bar notwithstanding. There is another instance, which I happen to know, of a man who behaved most disgracefully, and was found keeping a shop under a false name; it came out that he was a Barrister, but not the slightest notice was taken of him.

1633. You think the discipline of the Bar is not sufficiently strict?—It is not; and the Rules of the Bar are not sufficiently defined.

1634. If a man behaves disgracefully at the Bar, do you think there is sufficient power now of getting him punished?—There is a power in the Benchers to dis-bar, which is occasionally exercised.

The witness withdrew.

HUGH M'CALMONT CAIRNS, Esq., M.P., examined.

H. M. Cairns, Esq., M.P.

1635. You have for some time been in the habit of receiving pupils who are anxious to study for the Chancery Bar?—For the last ten or twelve years.

1636. Is it not the fact that one of your pupils at the last Examination obtained the distinction of a Studentship?—Yes.

1637. Have you turned your attention to the system which has recently been introduced of requiring the Students to attend the Lectures, and which also offers to them a voluntary Examination?—I have. I have thought a good deal of it, both from taking an interest in the subject and from being obliged to consider the way in which it affects one's pupils; and with the Commissioners' permission, I will state what has occurred to me about it. Looking at the state of the Profession and the sort of acquirements which are necessary for a Barrister in this country, my opinion is, that it is absolutely necessary that any one who wishes to practise effectively as a Barrister should have the advantage of spending two years before he is called to the Bar, in the Chambers of a practising Barrister, or in some place where he will see the actual routine of business, and not only have opportunities of studying Jurisprudence theoretically. The question which has occurred to me has been this: is it wise to do anything to or hold out any inducement which during those two years will take away the pupils from that which my hypothesis assumes to be the best course of employment for them during that time? It may be said, if the Examination be not compulsory (and it never is compulsory) to the Students, there is nothing which necessarily takes off their attention from Chamber work. The answer to that, however, is that so long as you hold out an inducement, such as a Studentship for instance, the best man of the time will always read for it and exert himself to get it. Even if that did not prove to be so, I do not consider that the consequence would be one which the Inns of Court would like to see follow, because then the alternative would be that the Studentship would be obtained by a man who was not the best man of the time. Therefore, either the most able man will not get it, or else, in order to get it, he will be so much occupied in reading, that he will incur the disadvantage to which I have referred. I do not say that with any intention to undervalue the sort of knowledge required for a Studentship; on the contrary, I attach the highest value to it, but I think when you are obliged to choose between a knowledge of the practical detail of business and the theoretical knowledge acquired by reading for the Studentship, the detail of business is the best. In addition to this, I think there is something in the course now followed which is a little repugnant to the natural aims of young men. You bring a man to London to serve two years for his call to the Bar, at an age when he is anxious to enter on the active business of life, but instead of letting him see something of the work he is to be afterwards engaged in, you forthwith relegate him, as it were, to a sort of second college education. There are a great many temptations in London, temptations to idleness and dissipation, which carry the Student off even from the somewhat more interesting work of Chambers; but if what he is engaged about is merely dry reading at home for a Studentship, I think the temptations would be still more strongly felt.

1638. Practically what has been the result of a pupil reading for the Studentship; has he

H. M. Cairns, Esq., M.P.

5th Dec. 1854.

ceased attendance at Chambers?—It would be invidious to refer to specific instances, but I think what generally would be found to take place is this: A young man is very anxious to obtain the Studentship; he gives himself up with assiduity to reading for it, he reads occasionally at Chambers, and occasionally in the Library of his Inn, and occasionally at home, but during that time he is prevented from attending to the actual business which other men of less ability are attending to at the same time.

1639. The hours of attendance at Chambers are from ten to four, usually?—Yes.

1640. Do not you conceive that if the pupil attends Chambers from ten to four, he still has a considerable opportunity left to him for reading in the evening, upon those subjects which may be the subjects of general Examination?—Yes, but at the same time, from ten to four is six hours, and if six hours are spent in close work, a little relaxation is needed, and if there was time for more reading, speaking from what I myself found when I was a pupil, I should say it was very desirable to shape out any reading that can be had in the evening or the morning to harmonise with the actual business which is done during the day; it is desirable for a pupil to read daily on that particular branch of the practice on which he has been for the day engaged in Chambers.

1641. Do you agree with many of the witnesses, that a more liberal range of study is required for the Bar than that which actually exists?—That is a matter which I cannot say I have thought so much of. I think the larger the range of reading in Jurisprudence, which those who are preparing for the Bar could be led to adopt, the greater would be the advantage. I cannot indeed fancy any branch of knowledge which at the Bar may not be brought into use at some time or other. If I may be permitted, I would suggest what has always occurred to me to be a plan which would be more feasible than that which is now adopted. It is this: the study of the Civil Law, and the study of Jurisprudence as a science, always seem to me, if not necessarily part of a collegiate education, at least to dovetail into a collegiate education. It is impossible for any one to be a perfect classical scholar who has not some knowledge of the Civil Law; or for any one to be proficient in Roman History who does not understand the history of the Civil Law. If Gibbon had written his History without a large and explanatory discourse on the Civil Law, it would have been a very imperfect book. Jurisprudence, also, is a great system of practical Ethics, and in any college where Ethics are studied, the science of Jurisprudence falls in with the same line of reading. It has, therefore, occurred to me whether it would not therefore be possible to effect a system of Legal Education connected with the Universities of the country, Oxford and Cambridge, and Dublin. I will suppose that the Inns of Court are willing to dedicate a certain amount of money to the foundation of Lectures, and to furnish rewards. It would seem to me to be very easy for them to enter into an arrangement with each of the Colleges, that in consideration of the Inns of Court furnishing this financial aid, they should have a certain amount of influence in the choice of the Lecturers and Examiners, and a certain control over the course of education. Examiners and Professors might be appointed, so that there might be a Legal Class formed, which should be attended, say by Students of Colleges the year before they take their Degree of Bachelor of Arts, and the year after. The year before they take their Degree of Bachelor of Arts, there might be a programme, not quite so exalted or so large as the year after, and each of these two years might terminate with some sort of Examination and reward, either a Scholarship for a year, or a Scholarship for a certain number of years. Then what I would go on to say would be this, that any person who attains in the Examinations so conducted, either a Scholarship or a certain standard of merit, should be exempted when he came to London, from the compulsory Examination, which every one else should be subjected to; that is to say, he should, after having had some preparation at College, to come to London and spend his two years here, during which he would be keeping his Terms and learning his business in Chambers without interference,—certainly without such interference as the temptation of a Studentship now occasions. When he was to be called to the Bar, he should be allowed to present himself, and if he had obtained a Legal Scholarship during the collegiate part of his instruction, he should be exempted from any Examination a second time, and if he were what is termed a Student or a scholar, he should have certain rank or priority assigned to him. There would be then a compulsory Examination which would embrace every other person; those who had not been at College, and those who, being at College, had not attained a certain rank in the collegiate Examination.

1642. Your system would withdraw a young man, during a year of his studies at the University, from that in which he now employs himself, namely, general literature, and the pursuit of general information?—Yes, but to meet that difficulty my notion would be that the year previous to his Degree you should not have a programme which was very irksome, but one which might be combined easily with the more popular studies of the University.

1643. Could not the studies the year after the Degree be as well carried on in London as at the University? Would not the same purpose you have in view be answered by having the same system of education in London for one year, and then still pursuing the two years' curriculum in Chambers?—I think that would be better than the present plan, but there are objections to it. I do not think London is the best field for anything which assumes the form of a collegiate education; and I think when young men come to London, and incur the great expense of living in London, their great desire is to get on as fast as

H. M. Cairns, Esq. M.P.

5th Dec. 1854.

possible, and that the time should arrive when they will be called to the Bar; and I do not think they would look on such a course of study in the same way as they would if it were treated as part of their collegiate course. It is necessary, in order to qualify yourself for a Master's Degree in Oxford, that you should reside there for a certain time after you have obtained the Degree of Bachelor of Arts, so that there must be residence there to some extent after the first Degree. I am quite certain that it would be for the interests of any University to come into such a scheme; and if one did it, the others must follow.

1644. Have you found any practical inconvenience in the attendance of the Students upon the Lectures which is compulsory, as regards its withdrawing them from Chambers?—I think that is an inconvenience, though not so serious as the other. It is an inconvenience that pupils should be subject to be absent any hour of the day from Chambers.

1645. Do not you think, in reference to calling to the Bar, it is of great importance that occupation should be found for those Students who may not themselves be extremely industrious, rather than that they should waste their time, and come to the Bar absolutely ignorant?—Yes; and with respect to the two years immediately preceding their call to the Bar, though my notion is that it would be better that there should be no Lectures or Examinations crowned with honours for those two years, still, if the plan I have spoken of were adopted, it would still be desirable that there should be also Lectures in London for those two years, attendance upon which would not be compulsory, but would be optional; so that any one who had not been at College might have the advantage of the Lectures.

1646. Is your opinion very clear, that when the general education of a young man is finished, and he devotes himself to the Profession of the Law, and enters into a course of study for the purpose, that course of study should be exclusively special?—That is my opinion.

1647. During the time he is at the Chambers of a Barrister, you think he should have nothing to distract his attention?—That is my view.

1648. And you think that the time generally given, which is two years or two years and a half, is not too much to attain to a knowledge of the special subjects embraced in the Profession of the Law?—I think two years is the very least; it is as absurd to think of any one practising as a Barrister without that kind of training as it is to think of any one practising surgery without walking the hospitals, as it is called.

1649. Might not the general knowledge, the possession of which you think desirable, be tested without any interference with the course of study at the University, or any alteration in the system there, by simply introducing a preliminary Examination for the purpose of ascertaining the attainments of the Students upon those points?—If you made any Examination a *sine quâ non* for permitting any one to enter as a Student of an Inn of Court, those who intend to become Students must look about, and prepare themselves for it; but it would be a serious drawback against many entering as Students.

1650. Your system would involve the establishment of Professors at the University, and also in London, to meet the cases of those who are not Members of the University at all; would not that involve very considerable fiscal difficulties?—Undoubtedly; the system would require the expenditure of more money than may at present take place; but this must be remembered, that my plan supposes that the Colleges would be willing to join and to bear part of the expense, as far as they are concerned, and I hope a considerable part; in fact, at some of the Colleges they have already a certain organization, which I should be very sorry if they do not make a better use of than they have done. For example, take the Professorship of Civil Law at Oxford, which is a perfect nonentity.

1651. Is not that for want of pupils?—Then I would supply pupils, and you cannot supply them better than by the heads of the Inns of Court, who understand what is practically wanted, putting themselves in co-operation with the heads of the University, pointing out what is required, prescribing the course of study, and saying, when these gentlemen come to London we will attribute a certain consequence to what they have done at the University.

1652. Would the Examination you propose be extended to general Legal subjects, or be confined to technical or professional subjects?—It would be confined to the curriculum, which might have been prescribed for the University, which I should think would be mainly the general system of Jurisprudence as a system of Ethics, and the knowledge of Civil Law as connected with classical and historical learning.

1653. You are in favour of a compulsory Examination for admission to the Bar?—I am.

1654. But you would allow a Degree at the University to stand in the stead of a compulsory Examination?—Yes; a Legal Degree. It is the second Examination which, as it occurs to me, might be made a substitute for the Examination at the call to the Bar. The person who obtained the highest reward, and those who came up to a certain standard of merit, should be exempted from a compulsory Examination when called to the Bar.

1655. Would that Examination include technical professional knowledge?—No; I would trust that the energy and ability which enabled any person to obtain a Legal Degree, with a certain standard of merit at College, would be a sufficient guarantee to the Inns of Court that he would also have technical knowledge when he came to be called to the Bar.

1656. You would have a compulsory Examination for those who are not Members of the University?—Yes; and for Members of the University who had not come up to the required standard.

H.M. Cairns, Esq., M.P.

5th Dec. 1854.

1657. Would that include technical or professional knowledge?—I should say both technical and theoretical knowledge.

1658. Would not there then be two standards of knowledge for the same call to the Bar?—That may be said, no doubt; but at the same time I think the considerations I have mentioned should prevail. What you require an Examination for, is to satisfy you that the person to be called is a person who has a certain amount of knowledge, a certain amount of industry, and a disposition to educate himself properly. It would be quite a sufficient guarantee of that if he had obtained at College either a Scholarship or a certain standard of merit.

1659. You are decidedly in favour of a compulsory Examination before a call to the Bar?—That is my view.

1660. With reference to those who are not University men, would you propose that there should be a preliminary Examination prior to their becoming Students?—No, I should not suggest that. I give my opinion with great diffidence upon that subject, but my notion is that there should be only one compulsory Examination.

1661. How then would you ensure anything like general information?—The last Examination may extend as widely as you think is desirable.

The witness withdrew.

Adjourned.

Friday, 4th May 1855.

VICE-CHANCELLOR THE HONOURABLE SIR WILLIAM PAGE WOOD IN THE CHAIR.

D. W. Harvey, Esq.

4th May 1855.

DANIEL WHITTLE HARVEY, Esq., examined.

1662. Have you any statement which you wish to make to the Commissioners?—My object in wishing to appear before this Commission is, to show that a great injustice may be done, for which there is no recognised redress. It has been established before a Committee of the House of Commons that the Benchers of the Inner Temple never could have done me the wrong they did if they had been armed with such powers as they ought to possess. And it is the more remarkable that such powers should up to the present time have been withheld, inasmuch as the Common Law Commissioners, in their Sixth Report, made as long since as 1834, alluded generally to the fact that I am now stating, and intimated that there ought to be some provision made in this respect. Further, in the year 1834, when the subject to which I am now referring was brought under the notice of the House of Commons, the present Lord Chief Justice of England, then Mr. Campbell, admitted that there ought to be some correction of the evil; at the same time, the present Lord Chancellor of England, who took a part in the discussion, and whose speech I have here, emphatically observed, "I beg to state, that if His Majesty's Government do not bring in a Bill to correct the existing evil, I will." It was upon this occasion that Mr. O'Connell, who was afterwards the Chairman of a Committee to which I shall presently refer, declared that since the world began there never was anything so unjust as the conduct of the Bench. This opinion was given before any other inquiry had been made than that which rested upon statements in the House of Commons, when the conduct of the Inns of Court was generally the subject of discussion. Shortly after, a Committee was appointed, consisting of men of the greatest eminence of every party, not one of whom did I name. That Committee sat for many days, and summoned before it many witnesses, and more especially took Evidence upon a case in reference to which the Benchers of the Inner Temple mainly rested their ground of my rejection. Though I am quite prepared to enter into all the details of the case, I do not think that I ought at present, if at all, to take up the time of the Commission in reverting to them, because the statement which I am about to make will establish the truthfulness of my representation, viz., that the greatest injustice was done me, and that, owing to the entire absence of any power in the Inns of Court, in the first instance to prevent, and in the next, when a wrong has been committed, to correct it. The main point which was urged by the Benchers of the Inner Temple against my claim to be called to the Bar was, that I had been employed as an Attorney to sell an estate for a Client, and that I did sell the estate for 500*l.* more than I accounted for to my Client. I have always admitted that if this charge had been true, it would have been a very grave charge against me; but I insisted then, as was subsequently established, the charge was without foundation. On the contrary, I insisted, and stated to the Benchers, that I had purchased the estate of a person whose name was Frost, that I had entered into a specific written agreement with Frost to buy it at the sum of 950*l.*, 500*l.* of which he was to receive, and 450*l.* his sister was to receive. I further stated, that before I consented to buy the estate for 950*l.* I waited upon the father of Mr. Frost, and told him that his son wished to sell his interest in the property, and that he wanted 500*l.* for his interest; upon which the father replied, "Why, his sister will be glad to take 450*l.* for her interest, which is the same as that of her brother;" and as to himself he declined to become the purchaser at the price required by his son, to whom I reported his father's refusal to purchase; whereupon I bought the

D. W. Harvey, Esq.

4th May 1855.

estate, and subsequently sold it for 1,450*l.* to a person of the name of Skingsley. The Benchers required evidence of these statements. I answered, "I can prove them by persons "who were my Clerks, who are here in attendance. I have also my books, by which it "will appear that a regular agreement was made and entered into between myself and "Frost. In the same books, and by the same Clerks, it will appear that there was an "agreement made and signed between Skingsley and me. It will also appear that it was "subsequently conveyed to Skingsley by Frost." Notwithstanding this statement and this tender of evidence, the Benchers certified to the Judges, who, as the Commissioners are aware, act in these cases as Visitors, and to whom I appealed against the decision of the Benchers, "that Mr. Harvey stated that he had purchased the property in question, and "afterwards sold it, and that there were regular agreements; and he produces his books, "but he produces no agreements, and his books are open to suspicion."

1663. From what are you reading?—From the report of the Benchers. This matter was brought before the House of Commons, and a Committee was appointed to inquire into all the circumstances attending the rejection of my claim to be called to the Bar, and which Committee consisted of Mr. O'Connell, Mr. Abercrombie, Mr. Solicitor General (Sir Charles Pepys), Mr. Cutler Fergusson, Sir William Horne, Mr. Sinclair, Colonel Peel, Mr. Hume, Mr. A. Baring, Mr. Lennard, Mr. Aglionby, Mr. C. Wynn, Mr. D'Eyncourt, Mr. Jervis, Colonel Evans, E. Lytton Bulwer, Mr. Prime, and several other Members. The Committee was very fully and constantly attended, and after sitting many days made their report to the House; and as it regards the action to which I am now referring the Committee reported as follows:—

"Your Committee entered upon an inquiry into the cause of Frost v. Harvey; the ground of which action is stated by the Benchers to be, that Frost had, in the year 1809, employed Mr. Harvey to sell an estate for him; that it had been sold for 950*l.* to a Mr. Skingley, 450*l.* of which was for Miss Frost, his sister, and 500*l.* for himself.

"That Skingley had, with Frost's assent, paid his 500*l.* into Mr. Harvey's hands for Frost; and that Mr. Harvey had appropriated 500*l.* to his own use, unknown to Mr. Frost, it being afterwards discovered that Skingley had paid 1,450*l.* for the estate.

"As a preliminary remark upon the circumstances of this case, your Committee have to observe, that it is clearly in evidence throughout, that Mr. Harvey was, and was publicly known to be, extensively engaged, generally with his father (although not in this transaction), in the purchase and sale of estates.

"That it appears to the Committee that Mr. Harvey purchased the estate in question of Mr. John Wall Frost in October 1809, under a specific agreement, the preparation and execution of which were so clearly proved, that of the existence of it your Committee feels no doubt; and that subsequently to his so doing, he, on his own account, sold the same estate to Henry Skingley, Esq., at a profit; but before Mr. Harvey purchased the said estate, and after the price was fixed, the offer of the estate was made to the father of Frost by Mr. Harvey, who had been the Attorney of J. W. Frost, on whose behalf such offer was made, and the father declined to become the purchaser at that price; and that it was not until after that refusal that Mr. Harvey contracted for the purchase at the same price of J. W. Frost, whose Attorney he then was, and continued to be two years after the sale to Skingley, and the profit realized being well known to Mr. J. W. Frost.

"As Mr. Skingley who bought the property was living, your Committee deemed it essential to have him examined upon the subject of the purchase; but it being represented by his medical attendant, who appeared before them, that Mr. Skingley was on account of illness incapable of attending the Committee at Westminster, a quorum of your Committee [Mr. O'Connell, Mr. Gladstone, and Sir G. Sinclair] was appointed to take his examination at his residence at Coggeshall, in Essex.

"In answer to questions put to him, Mr. Skingley stated, that Mr. Harvey was selling the estate for himself as principal, and not as Attorney selling for another; that he had not been much acquainted with Mr. Harvey before he bought the estate, and that he did not remember having any conversation with him some time before the purchase. Upon being shown the agreement between him and Mr. Harvey, Mr. Skingley acknowledged his signature, observing that he made the agreement with Mr. Harvey alone, and that he did not deal with anybody else; and upon being interrogated as to the value of the estate, replied, 'that he had given more for it than it was worth, owing to its local situation, on account of its adjoining his immediate domain.'

"That it appears to your Committee, that the correctness of Mr. Harvey's representation that he had so bought the estate of Mr. Frost, as well as the correctness of Mr. Skingley's evidence in this particular, is completely borne out by the first item in Mr. Harvey's original Bill of Costs, now found among Mr. Skingley's papers, and settled at the time, and which is inserted in the Appendix.

"It having been urged by the Benchers that the main point upon which their objection arising out of this cause rested, was the circumstance of Mr. Harvey's having made a profit, and that the same was concealed from the knowledge of Mr. Frost until it was discovered before the Arbitrator to whom the cause was referred, and the action having no reference in the first instance to the receiving of the profit made by Mr. Harvey; your Committee made that a subject of minute inquiry, and the result of the evidence is clearly to show, that the purchase and sale before alluded to was a matter of notoriety at the time, and known to Mr. Frost, the same having taken place four years before the

D. W. Harvey, Esq.

4th May 1855.

reference; and there is strong reason for believing that the attempt to recover the profit was a step taken by Mr. Andrew as a speculation, without the sanction, if not entirely unknown to his Client.

"That, finally, it appears that the action was settled to the satisfaction of Mr. Frost, to the exclusion of the 500*l.* profit realized by Mr. Harvey.

"Whereupon your Committee came unanimously to the following resolution:—

"'That Mr. D. W. Harvey did not sell the property acting as the agent of Mr. Frost, and on Mr. Frost's behalf, but that Mr. Harvey was the *bonâ fide* purchaser on his own account from Mr. Frost, and afterwards sold the estate to Mr. Skingley as principal, and not as agent.'

"That your Committee, after the foregoing resolutions, do not feel themselves called upon to enter into a more minute investigation of the complicated inferences and allegations set forth in the statement prepared by the Benchers, and urged by them in support of their decision, the more especially as the Committee find that the grounds taken by the Benchers in 1834 are materially at variance with the reasons given by them in their Certificate to the Judges in 1822.

"That it appears that Mr. Harvey, on the 7th of November 1810, was admitted a Member of the Inner Temple, upon the production of the requisition Certificate signed by two respectable persons of the Legal Profession, conformable to the following resolution: viz. 'That before any person be admitted a Member of the Inner Temple, his age, residence, and condition in life be stated in writing to the Steward or Under-Treasurer of the Society, together with a reference to some respectable person or persons, that inquiry may be made into his character and situation.' That in compliance with the Rules of the Society respecting Attorneys he caused his name to be struck from the Roll of Attorneys in the year 1819, being two years previous to his application to be called to the Bar. That in November 1821, having perfected his title to be called, by conforming to the Rules and Regulations of the Inn, he was for the first time apprised that the above two causes required to be explained before he could be called to the Bar. That a time was appointed for that purpose, when, after the explanation had been given, a communication was made by letter, the Treasurer stating that having collected the opinion of the Masters of the Bench, their opinion was adverse to his application 'to be called to the Bar;' and it further appears, that upon being requested by Mr. Harvey to be apprised of the grounds of their objection, he received a reply stating that 'there was no other answer than to acknowledge the receipt of his letter.' That against this decision Mr. Harvey forthwith presented his petition of appeal to the Judges as Visitors, and sent a copy thereof to the Benchers on the 15th day of December 1821. That the Judges called upon the Benchers to certify their objections, if they thought fit so to do, and which they did, under the signature of their Treasurer, dated 30th January 1822; and the Judges appointed the 1st February following to hear all parties, the Benchers supplying Mr. Harvey with a copy of their certificate only on the intermediate day. That it appears to your Committee from the evidence of Mr. Sewell, the Law Agent of Mr. Harvey upon this occasion, that he attended with several witnesses to meet and explain points of objection set forth in such certificate, but that all persons except himself, Mr. Harvey, and his Counsel, were excluded from the Hall, together with the Short-hand Writer, and that the evidence of witnesses was not received, but the certificate of the Benchers was confirmed *instanter*. That in the year 1821, Mr. Sewell further states, he attended the Benchers, when many witnesses also attended, and that only one was admitted at a time, but that no Short-hand Writer, Counsel, nor himself, were present during any part of the examination. That as your Committee have arrived at conclusions directly at variance with those of the Benchers, they feel themselves bound to express their conviction that the opinion formed of those two cases by that learned body should be attributed to the imperfect reports of the trials, and still more to the total absence of all authority to compel the attendance of necessary witnesses, or to enforce the production of essentially important documents; which defects have in this inquiry been remedied by the powers of the Committee, and they beg leave to state to the House their regret that the circumstances last alluded to should have produced consequences to Mr. Harvey which, especially in the sacrifice of a great space of valuable time, are irreparable; but the Committee therefore express their confident hope that, after the examination of the whole of the evidence, the Benchers will be induced to give Mr. Harvey the full benefit of the present inquiry."

Such being the report of the Committee, I immediately wrote to Mr. O'Connell, as the Chairman, to request his advice as to the course that he thought I ought to pursue in bringing that report under the notice of the Benchers; and I received from him a letter in reply, advising me to send a copy to every gentleman of the Bench, which I did, of which they took no notice whatever. I then brought all the circumstances before the Judges, who it appeared had no power or jurisdiction in the matter. In fact, for the great wrong, there appeared no enforceable redress; although, in obedience to the rules of the Inn, I had been compelled to give up my Profession as an Attorney, and while I was making between 2,000*l.* and 3,000*l.* a year, and although I sat in their Hall every day that it was requisite, for three years, certainly not as an unknown person,—unhappily, I was too well known, for at that time I had made myself obnoxious to the Profession, by bringing under the notice of Parliament certain abuses in the Court of Exchequer, by which the Profession largely profited, so that when the time came for being

D. W. Harvey, Esq.

4th May 1855.

called, the Benchers took the course of which I am now speaking, and when I called upon them to summon parties to rebut unfounded statements, the Benchers replied that they had no power to do so; at the same time, they refused admittance to the public, amongst whom were upwards of thirty Members of the House of Commons, not one was allowed to enter the Hall. It immediately occurred to me that some remedy must be applied to this monstrous oppression, and I shortly after moved to bring in a Bill to regulate the Bar in this respect; and it was in consequence of that motion, and the discussion which followed upon it, that the Committee to which I have referred was appointed, and upon which I consented to withdraw my motion for leave to bring in a Bill. The object of my Bill was, in fact, to sanction the remedy I should now suggest, viz., that a Mandamus from the Court of Queen's Bench to the Treasurer of an Inn should lie, to show cause why A.B is not placed on the books as a candidate for admission to the Bar; and next, when the name of A.B. has been admitted on the books, to show cause why the Benchers will not call him. As the Commission is quite aware, at present no person can of right become a member. Now, I insist that the Law is a great institution to which every citizen ought to have access, subject to such wholesome regulations as experience and wisdom, and recognized authority, shall frame; but it must not depend upon the caprice of a body, however learned or disinterested, to determine whether a person should be a Member of an Inn of Court or not, nor should they possess power to determine. At present the Inns of Court are little else than private clubs, without power to enforce right, but abundantly powerful to do wrong. Without, therefore, pressing my remedy, I respectfully suggest upon the attention of the Commission the Writ of Mandamus as a proper remedy, such as was applied for in the case of Mr. Wooller. The Benchers refused to put Mr. Wooller upon their books, because he had written "The Black Dwarf." If the Benchers are to be Judges, they ought to possess the attributes of justice. After hearing Mr. Wooller in support of the application for a Mandamus, the Judges refused the same, I believe with regret, they not having any power to grant the Writ. I do not see why a Mandamus, if some process more simple cannot be suggested, should not be available, after a party has been placed on the books, and subsequently the Benchers refuse to call him, because I consider an appeal to the Judges, not as Judges but as mere Visitors, to be a mere mockery of justice. As Visitors they have no power whatever to summon persons as witnesses, or to enforce their attendance. Then, again, the exclusion of the public is a species of despotism that ought not to be tolerated for an hour. If in my case the power to summon Skingsley and other persons had existed, in the same way as the three gentlemen whom I have named had power to go into the country and examine persons and papers, the same result must have followed, and I should not have been the victim of injustice as I have been and am. My decided conviction is, that there ought to be a clearly recognized right by which every British subject can have his name entered upon the books of either of our Inns of Court, with a view to being called to the Bar, subject to such orders and regulations as the Judges or other competent authority shall from time to time prescribe. Then, again, when a party has been so admitted, if any objection shall subsequently arise, let it be argued as in our Courts of Law, and as open to public observation and criticism as all other proceedings are, and let the parties stand or fall by the result. As matters now are, the Inns of Court and the appeal to the Visitors, in my mind, partake of the character of inquisitions, and as such ought to be suppressed. There is one other point to which I wish to direct the attention of the Commission, if it comes within its province; to place the Profession of a Barrister beyond the reach of ungenerous criticism. My impression is, that a Barrister ought to be as amenable to the Courts of Law as an Attorney.

1664. Do you mean that he should be responsible in damages?—Yes. I think he ought to be as amenable to the Courts of Law and to his Client as an Attorney. If an Attorney accepts money for a purpose which he misapplies, or conducts a case censurably and negligently, he is held responsible for it.

1665. Do you mean that the Barrister should be considered an Officer of the Court?—Yes. I do not know why he should be allowed to outrage all proper feeling any more than an Attorney.

1666. You would rather transfer the power of disbarring from the Bench to the Judges?—Yes, certainly.

1667. Do you think that that power should be exercised in open Court?—Yes, I think it should be exercised in open Court; and I wish to state, in justice to myself, that I consider an Attorney, in point of character, ought to stand quite as well as a Barrister. After these Benchers had treated me as I have described, and deprived me of my Profession, I went into Court, giving a regular notice of my intention to do so, expressly to challenge the Benchers why I should not be admitted as an Attorney.

1668. Did you place yourself on the Rolls?—Yes; I placed myself on the Rolls twice, upon two different occasions, and upon both was re-admitted. I have reason to know that one of the Benchers, afterwards a Judge, wrote to the Law Society to call their attention to my notice, who at once refused to interfere. I ought, perhaps, to call the attention of the Commissioners to the Sixth Report of the Commissioners on Courts of Common Law in the year 1834, before whom I was examined by the desire of Lord Melbourne. In that report, published 2nd of May 1834, my statement appeared, embodying all the circumstances of the case, to which I have now only thought it necessary briefly to allude. In the report made by the learned Commissioners they state, "It appears that there

D. W. Harvey, Esq.

4th May 1855.

is vested in the Benchers of the several Inns of Courts an uncontrolled and irresponsible power of debarring any person from admission into their Societies, though that admission forms the first entrance into a Profession occupying a most prominent and important rank among our civil institutions; and even when this entrance has been gained, and the party has consequently been led to devote himself for a period of three or of five years to the studies which are to qualify him for practice, the discretionary power of refusing that call to the Bar, without which his further progress is impossible, is again vested (subject indeed to appeal) in the same bodies of persons. It should be remarked too, that the Benchers derive from those privileges, not only the means of excluding from the Bar any particular individual whose admission there they disapprove, but the right also of laying down such general regulations as from time to time they may think fit, applicable to the case of all persons desirous of becoming Barristers. This state of things does not appear to us to be satisfactory. Though the probity and honour of the persons who now fill the Benches of the different Societies are well known, and though the number of rejected candidates has within the last twenty years been extremely small, yet we cannot think, that a power in the right use of which Society is so deeply interested, ought to be left without control in the hands of persons whose functions are not of a public and responsible kind." Then in another part of the Report they state, "It would be right also in our opinion to establish by way of positive regulation, that in all cases where an application is rejected, whether it relates to admission as a Student, or to the call to the Bar, the party applying shall have notice in writing of the cause of rejection, shall be allowed to clear himself from any charge of misconduct which it may involve, and for that purpose shall be at liberty to make his defence, either in person or by Counsel, and to produce Evidence; and that a full report of the whole Evidence and other proceedings before the Benchers shall (in the event of an appeal) be laid before the Judges." Now, I submit to the Commission that my case embodies all the mischiefs enumerated in the report; and although a Committee of the House of Commons, consisting of the most distinguished men, lay and professional, unanimously reported, that they attributed the adverse decision of the Benchers to the total absence of all authority to compel the attendance of necessary witnesses, or to enforce the production of essentially important documents: defects which were remedied during the inquiry; and they go on to state to the House their regret that these circumstances have produced consequences to Mr. Harvey which, especially in the sacrifice of a great space of valuable time, are irreparable; and although the Committee proceed to express the confident hope that after the examination of the whole of the evidence the Benchers will be induced to give Mr. Harvey the full benefit of the present inquiry, yet no step has ever been taken to amend the oppression and injustice of which I complain.

The witness withdrew.

Wednesday, 4th July 1855.

HENRY SINGER KEATING, Esq., Q.C., M.P., in the Chair.

Mr. G. Bryant.

4th July 1855.

Mr. George Bryant, further examined.

1669. You are the Under Treasurer of the Inner Temple?—Yes.

1670. It does not appear upon the evidence what had been done by the Inner Temple previously to the institution of the Council of Education, in furtherance of Legal Education. Will you state to the Commission what had been done by the Society of the Inner Temple with reference to Legal Education previously to that period?—In 1833 Mr. Starkie and Mr. Austin were appointed to deliver Lectures in the Hall.

1671. Was that Mr. Starkie the Queen's Counsel?—Yes.

1672. On what subjects?—Mr. Starkie was appointed to deliver Lectures in the Hall of the Society upon the Principles of the Law administered in the Superior Courts of Common Law and Equity. Mr. Austin was appointed to deliver Lectures upon the general Principles of Jurisprudence and International Law. That was on the 8th of November, 1833.

1673. How long did those gentlemen continue as Lecturers?—Until 1835; and then on the 13th of January 1835, in consequence of the slight attendance of Members, the Lectures were discontinued; they were reduced to a very slight attendance indeed, sometimes only as many as three or four, I think, attended; the last attendance was eight.

1674. After 1835 did the subject engage the attention of the Bench?—For a considerable time.

1675. What was ultimately done?—Mr. Hall, of Lincoln's Inn, was appointed as Lecturer.

1676. At what time?—The 4th of June 1847.

1677. Then between 1835 and 1847 there were no regular Lecturers?—No; but during that time the Bench had devoted considerable attention to it.

1678. However, there was no Lecturer appointed?—No.

1679. Were the services of Mr. Starkie and Mr. Austin gratuitous, or did they receive salaries?—They received a remuneration of Ten Guineas for each Lecture.

1680. When Mr. Hall was appointed in 1847, was he appointed at a fixed salary?—He received 300*l.* a year.

Mr. G. Bryant.

4th July 1855.

1681. How many Lectures was he bound to deliver, have you any means of informing the Commission? Did he deliver Lectures periodically during each Term?—He did.

1682. Do you know whether there were annual Examinations at which a prize was given by the Society to the best answerer?—There were.

1683. How long did Mr. Hall continue Lecturer?—Until 1851.

1684. When the Committee of the four Inns of Court met and the Council of Legal Education was appointed?—Yes.

1685. The attention of the Commission has been directed to the largeness of the expenditure of the Inner Temple as compared with that of Lincoln's Inn. Can you inform the Commissioners whether that subject had engaged the attention of the Bench before the appointment of the present Commission?—Seriously.

1686. At what time was it taken into consideration?—There was a Committee appointed to inquire into the domestic management of the Society on the 30th of January 1852, upon the motion of Mr. Roebuck. That Committee sat, and has continued to meet from time to time until this very Term.

1687. Is it still in existence?—It is; but the difficulty which there was at the first appointment of the Committee was owing, in a great measure, to the numerous avocations of Mr. Roebuck, combined with his ill health. However, the Committee made, and proposed to make, great changes in the establishment, which will, I have no doubt, effect a very considerable reduction.

1688. Was that Committee appointed with reference to any comparison of the expenditure of Lincoln's Inn, or generally from an impression that the expenditure of the Inner Temple was too large?—Generally from an impression on the part of the Bench that their expenditure was too large.

1689. The attention of the Commission has been directed to the number and amount of the salaries paid to servants in the Inner Temple, as compared with similar salaries paid to servants in Lincoln's Inn?—That I can understand. The number of gentlemen attending Lincoln's Inn Hall would perhaps be larger than ours, but it is necessary that there should always be a sufficient number of servants with us to provide against emergencies; that is to say, that the attendance of Members in our Hall varies so much, that on some days we may have only as many as perhaps 20 or 30, and on others we may have as many as 100 or 120. It is impossible to calculate exactly what number of servants are necessary. Then again, I understand that in Lincoln's Inn they have a different arrangement in the Kitchen to what we have, and the cook there would be able to remunerate himself, whereas with us until this time the cook has received a salary. However, that it is in the contemplation of the Committee and of the Bench to alter, and as far as possible, to reduce the expenses.

1690. Are you of opinion that considerable reduction might be made?—Certainly.

1691. Do you happen to know whether that has been already resolved upon?—Yes; It has been resolved upon on the part of the Committee, and, I have no doubt, will meet with the approbation of the Bench, and receive their confirmation.

1692. We observe a body of servants of the Society receiving fixed salaries; have the offices filled by those servants been of ancient date?—All of them are of very ancient date.

1693. Will you tell the Commissioners whether the present Committee propose prospectively to reduce the number?—They propose to reduce them very considerably.

1694. What is the uncertainty of numbers and attendance in the Inner Temple, as compared with Lincoln's Inn?—I understand that in the Inner Temple there are fewer persons living in Chambers, and the number of Barristers dining there is very much smaller than at Lincoln's Inn; there are few evening consultations there, and at Lincoln's Inn I fancy that there are more gentlemen living in Chambers.

1695. Do you know whether the expenditure of the Inner Temple must always necessarily be large in respect of the repairs of buildings?—Yes, I think it must be. In the first place there are a great number of very old buildings, and the constant changes which there are in the tenancies entail a greater expense upon the Society as landlords than in the case of an ordinary individual; people are constantly going in and out. In these old buildings, as you are aware, there is an immense deal of wainscot. Painting is very expensive. Then, again, although perhaps the new buildings are not so expensive, the rooms there are large, and there are constant repairs.

1696. Still, those are expenses which must also exist in Lincoln's Inn?—Yes; but not to the same extent as they do with us. In Lincoln's Inn they have, I think, only rather more than half the number of Chambers which we have. We have about 400 sets of Chambers, requiring the constant supervision of the Society, as far as external repairs go. Then, in the hands of the Society there are, I think, about 280 sets of Chambers to which they necessarily do all the repairs. There are the Church, the Library, and all that kind of thing. The buildings in the Inner Temple, I think, cover a greater area than they do in Lincoln's Inn.

1697. Can you, by referring to your books, give us the exact date when the Society was out of debt?—Christmas, 1853.

The witness withdrew.

Adjourned.

INNS OF COURT INQUIRY COMMISSION.

APPENDIX B.

Suggestions.

RETURN referred to in the Answers received from W. Whateley, Esq., Q.C., the Treasurer of the Honourable Society of the Inner Temple; from C. H. Whitehurst, Esq., Q.C., the Treasurer of the Honourable Society of the Middle Temple; from Sir FitzRoy Kelly, Q.C., M.P., the Treasurer of the Honourable Society of Lincoln's Inn; and in the Statement sent in by F. Whitmarsh, Esq., Q.C., the Treasurer of the Honourable Society of Gray's Inn, showing the Number of Students who attended the several Public Lectures and Classes of the Five Readers respectively, during the Three Terms of the First Educational Year, 1852–3.

PUBLIC LECTURES.

Readers.	Michaelmas Term, 1852. 1st of Nov. to 22d Dec.						Hilary Term, 1853. 11th January to 30th March.								
	1st Lecture.	2d.	3d.	4th.	5th.	6th.	1st Lecture.	2d.	3d.	4th.	5th.	6th.	7th.	8th.	9th.
On Constitutional Law, &c.	29	53	47	49	46	44	34	38	38	38	36	31	31	19	—
On Equity	44	64	53	53	51	50	66	57	56	55	47	47	45	45	41
On the Law of Real Property, &c.	66	72	51	68	64	60	68	64	63	62	51	56	55	52	48
On Jurisprudence, &c.	Owing to the illness of Dr. Maine, no Public Lectures were delivered.						32	30	32	30	26	26	27	28	27
On the Common Law	47	Only one Lecture delivered.					54	53	57	53	52	45	49	40	41

Readers.	Trinity Term, 1853. 15th April to 31st July.										
	1st Lecture.	2d.	3d.	4th.	5th.	6th.	7th.	8th.	9th.	10th.	11th.	12th.
On Constitutional Law, &c.	56	49	47	46	45	46	46	43	—	—	—	—
On Equity	58	49	53	49	45	45	46	44	47	44	44	41
On the Law of Real Property, &c.	53	65	63	60	58	55	57	52	57	56	51	52
On Jurisprudence, &c.	39	40	37	35	33	34	31	35	34	34	33	31
On the Common Law	67	55	57	55	54	51	50	54	50	47	46	45

PRIVATE LECTURES OR CLASSES.

Michaelmas Term, 1852.

	1st Meeting.	2d.	3d.	4th.	5th.	6th.	7th.	8th.	9th.	10th.	11th.	12th.	13th.	14th.	15th.	16th.	17th.	18th.	19th.
On Constitutional Law, &c.	6	14	10	10	10	11	9	9	8	7	7	1	—	—	—	—	—	—	—
On Equity	17	15	6	9	10	16	11	7	7	11	9	5	4	6	7	9	4	13	8
On the Law of Real Property, &c.	30	31	25	27	23	18	19	18	20	26	19	20	25	22	16	17	13	17	15
On Jurisprudence, &c.	2	9	8	7	8	7	7	8	10	6	6	6	—	—	—	—	—	—	—
On the Common Law	16	10	15	9	17	20	19	24	11	18	18	20	20	12	14	16	13	15	6

	20th Meeting.	21st.	22d.	23d.	24th.	25th.	26th.	27th.	28th.	29th.	30th.	31st.	32d.	33d.	34th.	35th.	36th.	37th.	38th.
On Constitutional Law, &c.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
On Equity	5	9	4	12	5	5	6	5	11	5	4	4	4	—	—	—	—	—	—
On the Law of Real Property, &c.	8	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
On Jurisprudence, &c.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
On the Common Law	13	11	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Hilary Term, 1853.

	1st Meeting.	2d.	3d.	4th.	5th.	6th.	7th.	8th.	9th.	10th.	11th.	12th.	13th.	14th.	15th.	16th.	17th.	18th.	19th.
On Constitutional Law, &c.	4	5	6	4	6	6	4	4	6	5	5	6	5	4	6	6	4	6	—
On Equity	4	11	12	7	11	9	7	7	8	8	9	7	5	6	6	7	5	8	8
On the Law of Real Property, &c.	12	18	19	14	14	15	17	13	12	9	12	16	15	14	10	7	10	10	11
On Jurisprudence, &c.	2	7	5	5	7	5	7	7	6	7	7	7	7	4	6	5	3	5	5
On the Common Law	9	20	17	18	17	15	18	16	16	10	16	16	14	15	13	9	11	13	14

	20th Meeting.	21st.	22d.	23d.	24th.	25th.	26th.	27th.	28th.	29th.	30th.	31st.	32d.	33d.	34th.	35th.	36th.	37th.	38th.	39th.
On Constitutional Law, &c.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
On Equity	5	8	7	6	7	5	4	—	—	—	—	—	—	—	—	—	—	—	—	—
On the Law of Real Property, &c.	9	9	10	11	6	7	10	10	7	—	—	—	—	—	—	—	—	—	—	—
On Jurisprudence, &c.	4	6	5	2	2	3	3	6	—	—	—	—	—	—	—	—	—	—	—	—
On the Common Law	9	14	11	14	9	11	10	11	9	8	—	—	—	—	—	—	—	—	—	—

Trinity Term, 1853.

	1st Meeting.	2d.	3d.	4th.	5th.	6th.	7th.	8th.	9th.	10th.	11th.	12th.	13th.	14th.	15th.	16th.	17th.	18th.	19th.
On Constitutional Law, &c.	3	8	9	9	8	8	5	4	4	6	6	6	5	6	5	7	7	4	6
On Equity	3	6	4	5	7	6	4	3	4	3	2	2	7	2	5	2	1	4	2
On the Law of Real Property, &c.	2	10	9	9	10	11	10	8	7	7	5	3	3	3	5	5	2	5	5
On Jurisprudence, &c.	5	5	5	8	5	5	7	6	6	3	6	6	4	6	8	5	5	6	5
On the Common Law	17	17	13	16	15	11	13	14	10	7	8	13	11	10	10	9	12	9	11

	20th. Meeting.	21st.	22d.	23d.	24th.	25th.	26th.	27th.	28th.	29th.	30th.	31st.	32d.	33d.	34th.	35th.	36th.	37th.	38th.	39th.
On Constitutional Law, &c.	7	6	8	6	6	3	7	3	—	—	—	—	—	—	—	—	—	—	—	—
On Equity	3	5	3	1	3	4	2	3	3	1	4	3	3	3	4	5	6	5	4	5
On the Law of Real Property, &c.	7	6	6	3	6	5	6	3	4	3	6	5	5	6	5	5	—	—	—	—
On Jurisprudence, &c.	6	6	5	4	5	3	4	6	5	5	5	5	4	5	4	—	—	—	—	—
On the Common Law	12	6	9	10	8	7	9	11	9	8	9	7	7	9	9	7	6	7	7	7

Copies of Printed Papers referred to in the Answers received from the Treasurers of the Inner Temple, of the Middle Temple, and Lincoln's Inn, to the Circulars addressed to them by order of Her Majesty's Commissioners.

The Report of the Committee on Legal Education.

By Orders of the several Societies of Lincoln's Inn, the Middle Temple, the Inner Temple, and Gray's Inn, the following Report has been adopted and directed to be carried into effect, and the Regulations therein suggested are now the Rules of the Four Inns of Court.

To the Benchers of the several Societies of Lincoln's Inn, the Middle Temple, the Inner Temple, and Gray's Inn,

The Report of the Committee on the Subject of Legal Education, and on Uniformity of Practice as to the Admission of Students, the mode of keeping Terms, and the calling of Students to the Bar.

Your Committee have considered the subjects which were referred to them, and have to report to the several Societies, that they have agreed on the following Rules and Regulations:—

As to Legal Education.

1. That the four Inns of Court shall act in concert with each other in the joint establishment and maintenance of an uniform system for the Legal Education of Students before Admission to the Bar.

2. That a standing Committee or Council be established, to consist of eight Benchers, two to be nominated by each of the Inns of Court, and of whom four shall be a Quorum. The Members shall remain in office for two years, and each Inn shall have power to fill up any vacancy that may occur in the number of its nominees during that period. To this Council shall be entrusted the power and duty of superintending the whole subject of the education of the Students, and of arranging and settling the details of the several measures which may be deemed necessary to be adopted.

3. That for the purpose of affording to the Students the means of obtaining instruction and guidance in their Legal Studies, five Readerships or Professorships shall be established, which shall consist of the three Readerships already established by the Societies of the Middle Temple, the Inner Temple, and Gray's Inn, viz.:—on Jurisprudence, and the Civil Law, the Law of Real Property, and the Common Law; and also of a Reader on Equity, to be named by the Society of Lincoln's Inn, and of a Readership on Constitutional Law and Legal History, to be founded by the four Societies jointly. The Readers shall be appointed for a period of three years, and the Reader on Constitutional Law and Legal History shall be chosen by the standing Council.

4. That the duties of the Readers (subject to regulation by the standing Council) shall consist of the delivery of three Courses of Lectures in each year, of the formation of Classes of Students for the purpose of giving instruction in a more detailed and personal form than can be supplied by general Lectures, and of affording to Students generally advice and directions for the conduct of their professional Studies.

5. That the four Inns of Court shall form a Common Fund by annual contributions, the amounts of which shall be mutually agreed on, and out of which Fund shall be drawn the Stipends to be assigned to the Readers and such Studentships as shall from time to time be conferred upon Students.

6. That the Lectures and Classes of the Readers shall be open to the Students of all the Societies without distinction, subject to the payment of such fees as are herein-after directed.

7. That the Stipend of each Reader shall be Three Hundred Guineas per annum, and such Stipends, and also the expense of the Studentships, shall be wholly defrayed out of the Common Fund, to be raised by the contributions of the several Societies.

8. That each Student shall on admission pay a sum of Five Guineas, which shall entitle him to attend the Lectures of all the Readers.

9. That the Fund composed of such last-mentioned payments shall be annually divided among the five Readers equally, in addition to their Stipends.

10. That (subject to regulations by the Council) every Student shall be at liberty to attend such Classes as he may think necessary, upon payment of a moderate fee to the Reader, but care shall be taken by the Council that such fees shall not in any year exceed the sum of Three Guineas.

11. That for the purposes of Education the Legal Year shall be considered as divided into three Terms or periods, one commencing with the 1st of November and ending on the 22d of December, the second commencing on the 11th of January and ending on the 30th of March, and the third commencing on the 15th of April and ending on the 31st of July, subject to a deduction of the days intervening between the end of Easter and the beginning of Trinity Term.

12. That no Student shall be eligible to be called to the Bar who shall not either have attended during one whole year the Lectures of two of the Readers, or have satisfactorily passed a Public Examination.

13. That Public Examinations shall be instituted, to be held three times a year, for the Examination of all such Students as shall be desirous of being examined previously to being called to the Bar, and such Examinations shall be conducted by at least two Members of the

The Report of the Committee on Legal Education.

Council jointly with the five Readers, and Certificates of having honourably passed such Examination shall be given to such Students as shall appear to the Examiners to be entitled thereto.

14. That such Examinations shall be held in Michaelmas Term, Hilary Term, and Trinity Term.

15. That as an inducement to Students to propose themselves for Examination, Studentships shall be founded of Fifty Guineas per annum each, to continue for a period of three years, and one such Studentship shall be conferred on the most distinguished Student at each Public Examination; and further, the Examiners shall select and certify the names of three other Students who shall have passed the next best Examinations; and the Inns of Court to which such Students belong, may, if desired, dispense with any Terms, not exceeding two, that may remain to be kept by such Students previously to their being called to the Bar: Provided that the Examiners shall not be obliged to confer or grant any Studentship or Certificate, unless they shall be of opinion that the Examination of the Students they select has been such as entitles them thereto.

16. That at every Call to the Bar those Students who have passed a Public Examination, and either obtained a Studentship or a Certificate of Honour, shall take rank in seniority over all other Students who shall be called on the same day.

17. That the Standing Council shall have power to grant dispensations to Students who shall have been prevented by any reasonable cause from complying with all the regulations as to the attendance on Lectures which shall from time to time be established.

As to Uniformity in Admission, &c. of Students.

18. That it is expedient that henceforward there should be uniformity of usage at the respective Inns of Court as to the Admission of Students as Members of those Societies.

19. That it is expedient that no Attorney-at-law, Solicitor, Writer to the Signet, or Writer of the Scotch Courts, Proctor, Notary Public, Clerk in Chancery, Parliamentary Agent, or Agent in any Court, original or appellate, Clerk to any Justice of the Peace, or person acting in any of these capacities; and no Clerk of, or to, any Barrister, Conveyancer, Special Pleader, Equity Draftsman, Attorney, Solicitor, Writer to the Signet, or Writer of the Scotch Courts, Proctor, Notary Public, Parliamentary Agent, or Agent in any Court, original or appellate, Clerk in Chancery, Clerk of the Peace, Clerk to any Justice of the Peace, or of, or to any Officer in any Court of Law or Equity, or person acting in the capacity of any such Clerks, should be admitted a Member of any of the said Societies for the purpose of being called to the Bar, or of practising under the Bar, until such person, being on the Roll of any Court, shall have taken his name off the Rolls thereof, nor until he and every other person above named or described shall have entirely and *bonâ fide* ceased to act or practise in any of the capacities above named or described.

20. That it is expedient that no Member of any of the said Societies should be allowed to apply for, or take out, any Certificate to practise, either directly or indirectly, as a Special Pleader, or Conveyancer, or Draftsman in Equity, without the special permission of the Masters of the Bench of each Society respectively, and that no such permission should be granted until the Member applying shall have kept twelve Terms.

21. That such permission should only be granted for one year from the date thereof, but may be renewed annually, by order, as aforesaid.

22. That it is expedient that no person be allowed to obtain any such Certificate unless he shall have attended such Lectures, or passed such an Examination, as under the preceding Rules would be necessary to entitle him to be called to the Bar.

23. That it is expedient that the following forms should be adopted by the said Societies on applications for Admission as Members:—

"*I* *of* *aged*
"*the* *son of* *of* *in the county*
"*of* [*add father's possession, if any, and the condition in life*
"*and occupation, if any, of the applicant*] *do hereby declare that I am desirous of being*
"*admitted a Member of the Honourable Society of* *for the*
"*purpose of keeping Terms for the Bar, and that I will not, either directly or indirectly,*
"*apply for, or take out, any Certificate to practise, directly or indirectly, as a Special*
"*Pleader, or Conveyancer, or Draftsman in Equity, without the special permission of the*
"*Masters of the Bench of the said Society.*

"*And I do hereby further declare that I am not an Attorney at Law, Solicitor, a Writer to*
"*the Signet, a Writer of the Scotch Courts, a Proctor, a Notary Public, a Clerk in Chancery,*
"*a Parliamentary Agent, an Agent in any Court, original or appellate, a Clerk to any Justice*
"*of Peace; nor do I act, directly or indirectly, in any such capacity, or in the capacity*
"*of Clerk of or to any of the persons above described, or as Clerk of or to any Officer in*
"*any Court of Law or Equity.*

"*Dated this* *day of*

"(*Signature*)

"*We, the undersigned, do hereby certify that we believe the above-named*
"*to be a gentleman of respectability, and a proper person to be admitted*
"*a Member of the said Society.*

"
"
} *Barristers of*

"*Approved,* {

"*Treasurer, or, in his absence, by two Benchers*"

The Report of the Committee on Legal Education.

24. That it is expedient that every Member of the said Societies should have kept twelve Terms before being called to the Bar, unless any Term or Terms shall have been dispensed with, under the 15th preceding Rule.

25. That it is expedient that every Member of the said Societies should have attained the age of twenty-one before being called to the Bar.

26. That it is expedient that Members of the said Societies, who shall at the same time be Members of the Universities of Oxford, Cambridge, Dublin, London, or Durham, should be enabled to keep Terms by dining in the Halls of their respective Societies any three days in each Term.

27. That Members of the said Societies, who shall not at the same time be Members of the said Universities, should be enabled to keep Terms by dining in the Halls of their respective Societies any six days in each Term.

28. That it is expedient that no day's attendance in the respective Halls should be available for the purpose of keeping Term, unless the Member so attending shall have been present at the grace before dinner, during the whole of dinner, and until the concluding grace shall have been said.

29. That it is expedient that no Member of any of the said Societies, desirous of being called to the Bar, should be so called until the name and description of such Candidate shall have been placed upon the screens hung in the Halls, Bencher's Rooms, and Treasury or Steward's Offices, of each Society, fourteen days in Term before such Call.

30. That it is expedient that the name and description of every such Candidate should be sent to the other Inns of Court, and should also be screened for the same space of time, in their respective Halls, Bencher's Rooms, and Treasury or Steward's Offices.

31. That it is expedient that the above regulations as to screening names, &c., should be applied to Members seeking Certificates to practise as Special Pleaders, Conveyancers, or Equity Draftsmen.

32. That it is expedient that no Call to the Bar should take place except during Term, and that such Call should be made on the same day by the several Societies, namely, on the 16th day of each Term, unless such day happen to be Sunday, and in such case on the Monday after.

33. That all the foregoing Rules and regulations shall come into operation on the first day of Trinity Term now next ensuing, and shall apply to all persons entering as Students on and after that day, and also to all existing Students who shall not by the first day of Trinity Term next have kept more than four Terms; but all other Students shall, if they desire it, be admitted to the benefit of the Lectures and Classes, and be entitled to submit themselves to Public Examination upon the same Terms, and subject to the same regulations as are hereby made applicable to Students entering on and after the first day of Trinity Term, 1852.

The Committee have abstained from framing any scheme, or making any suggestion, as to the fees or dues charged by the Inns of Court to their respective Members, or the deposits on the entrance of Students, as they consider that these are matters of internal arrangement, which may with more propriety be left to the discretion and regulation of the Societies respectively.

Richard Bethell, Chairman.
John Romilly.
Ed. B. Sugden.
J. L. Knight Bruce.
Edward Ryan.
S. Lushington.
R. T. Kindersley.
John Dodson.
A. E. Cockburn.
W. P. Wood.
Biggs Andrews.
Richard Budden Crowder.
Charles James Knowles.
Wm. John Alexander.
George Rose.
R. B. Armstrong.
Henry Hallam.
Wm. John Broderip.
Samuel Turner.
Archer Ryland.
John Rolt.
Henry S. Keating.
Clement T. Swanston.
Christopher Temple.
Spencer H. Walpole.
Roundell Palmer.
J. G. Phillimore.
Francis Whitmarsh.
G. Long.
John G. Teed.
W. Coulson.

Prospectus of the Lectures to be delivered during the ensuing Educational Term by the several Readers appointed by the Inns of Court.

Prospectus of the Lectures to be delivered during the ensuing Educational Term by the several Readers appointed by the Inns of Court.—*Dated 23d March* 1854.

Constitutional Law and Legal History.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History will comprise the following subjects:—

Rise and Progress of Written Law;—Character of the Early Writers on English Law;—Glanville and Bracton;—Progress of Law during the Reign of Henry II.;—Causes of Magna Charta;—Motives of the Tumults and Disturbances which took place during the

Prospectus, &c.—*cont.*

Reigns of Henry II., John, and Henry III.;—Value of Matthew Paris;—Contrast between French and English History, between the resistance of the French and English Vassal;—Rights of the People and of Foreign Merchants incorporated with Magna Charta;—Lord Coke's Commentary upon "Omnis Liber Homo;"—Gradual progress of the English Constitution;—Character of the Times of Charles I. and Charles II.

In his Private Lectures the Reader will pursue the History of England from the time of Charles I. to the Revolution. He will endeavour to illustrate the subject by reference to the Law of other Countries, and the Writers on the Law of Nations.

Books.

Millar, Const. Hist.
Creasy on the English Constitution.
Sullivan's Lectures.
Brodie's Const. History.
Hallam, Const. History and Chapter in Middle Ages.
State Trials.
Statute Book.
Parliamentary History.
Rapin.
May.
Clarendon.

The Reader on Constitutional Law and Legal History will deliver his Public Lectures at Lincoln's Inn Hall, on Wednesday in each week (the first Lecture to be delivered on the 19th April) commencing at 2 p.m. The Reader will receive his Private Classes on Tuesday, Thursday, and Saturday mornings, from half-past nine to half-past eleven o'clock, in the Bencher's Reading Room, at Lincoln's Inn Hall.

Equity.

The Reader on Equity proposes to deliver a Course of twelve Lectures on the jurisdiction exercised by the Court of Chancery, in consequence of the Rules of Procedure adopted by the Courts of Common Law not permiting them to administer justice efficiently in certain cases—On the advantages and disadvantages attending the Systems of Procedure in Common Law and Equity—On the proposal to amalgamate the Equitable with the Legal jurisdiction—And on the present Course of practice in the Court of Chancery.

In addition to the Public Lectures, it is proposed that two Classes shall be formed, as during the preceding Terms, for the study of the principles and practice adopted by Courts of Equity; each Class to meet for one hour three times a week. The Junior Class will read *Smith's Manual of Equity Jurisprudence*, commencing with the chapter on "Mortgages, Pledges, and Liens;" and portions of *Spence on the Equitable Jurisdiction of the Court of Chancery*, Vol I.

The Senior Class will read *Story's Commentaries on Equity Jurisprudence*, Vol. II., commencing with the chapter on "Election and Satisfaction;" *White and Tudor's Leading Cases*, Vol. II., commencing with "Stapilton *v.* Stapilton;" *Mitford's Pleadings in Chancery*, commencing with the chapter on "Pleas." Each Student will be expected, in the intervals between the meetings of the Class, to peruse portions of these and other works pointed out by the Reader; and to be prepared, at the ensuing meeting of the Class, to answer and discuss questions arising out of the subjects of their reading.

The Reader on Equity will deliver his Public Lectures at Lincoln's Inn Hall, on Thursday in each week during the Educational Term, commencing at two o'clock p.m., (the first Lecture to be delivered on the 20th of April). The Reader will receive his Private Classes on Monday, Wednesday, and Friday evenings, from 7 to 9 o'clock, in the Bencher's Reading Room, at Lincoln's Inn Hall.

Law of Real Property, &c.

The Reader on the Law of Real Property, &c., proposes to deliver in the ensuing Educational Term, a course of Twelve Public Lectures on the following subjects:—

I.—The General Rules of Construction applicable to Deeds and Wills, with reference to—Mistake;—Falsa Demonstratio non Nocet;—Verbal Alterations and Transpositions;—Admission of Extrinsic Evidence.

II.—Voluntary Settlements—13 Eliz. c. 5., 27 Eliz. c. 4.

III.—The Creation and Delegation of Powers of Sale, given to Fiduciary Vendors.

IV.—The Liability of Purchasers to see to the application of their Purchase Money.

V.—The Law of Judgments, so far as they effect Real Estate—1 & 2 Vict. c. 110., 2 & 3 Vict. c. 11.

VI.—The Law of Covenants, with reference to the Law of Vendor and Purchaser.

The Lectures to be delivered to the Private Classes will comprise the following subjects:—With the *Senior* Class, the text of *Sugden on Powers*, commencing at vol. i. p. 439., will form the basis of the Lectures; and the latest decisions illustrating the principles there laid down will be examined and commented upon. With the *Junior* Class, the subject of the Lectures will be the *Real Property Statutes*, and the *Rule in Shelly's Case.*

The Public Lectures will be delivered at Gray's Inn Hall, on Friday in each week, at 2 p.m. [the first Lecture to be delivered on the 21st of April.] The Private Classes will be held in the North Library of Gray's Inn, on Monday, Wednesday, and Friday mornings, from a quarter to 12 to a quarter to 2 o'clock.

Jurisprudence and the Civil Law.

The Reader on Jurisprudence and the Civil Law will, in the course of the ensuing Educational Term, deliver Twelve Public Lectures on the following subjects:—

I. *On Obligation and Contract.*—On the Nature of Obligations, and their place in General Jurisprudence—On the Roman Theory of Obligation, and the mode in which it has been interpreted by Pothier and others—On the Necessary Elements of Contract, and on the manner in which they are discriminated by the Roman Jurists and by English Law—On Pollicitations, Conventions, and Pacts, and on some disputed Questions connected with the Pactum Nudum—On the Classification of Contracts—On some particular Forms of Contract, and more especially on the Contracts of Sale.

II. *On Prescriptions.*—On Usucapion, and on some Peculiarities in the Ancient Views of Proprietary Right—On the Connexion between Possession and Prescription, and Savigney's Theory of Possession—On the Nature and Criteria of a true Prescription, and on the extent to which such Prescriptions are admitted in English and Roman Jurisprudence, and in certain Continental Systems of Law.

III. *On Testamentary Jurisprudence.*—On some current Theories respecting the Origin of the Testamentary Power—On Universal Successions; on the manner in which the Conception of a Universal Succession appears to have been originally formed, and on its importance as a Key to Testamentary Jurisprudence—On the Principal Rules of the Roman Law of Testaments, and on the Modifications and Distortions which those Rules have undergone in Modern Law—On the Jus Accrescendi; its Ancient and Modern History—On Substitutions, and their connexion with Entails—On Legacies and Fidei Commissa.

IV. *On the Doctrines of Roman Law, regarding Conditions, Good Faith, Negligence, and Fraud.*—With his Private Classes, the Reader proposes to read the "*Institutiones Juris Romani Privati* of Warnkönig, and afterwards the Commentaries of the same writer, or some other Compendium of "*Pandect Law.*"

The following works will also be incidentally referred to at the Public or Private Lectures, and portions of them recommended for perusal:—Dumont's Bentham, Austin's "Province of Jurisprudence determined," the "*Esprit des Lois*," the "*Droit Civil*" of Toullier, the "*Doctrina Juris Philosophica*" of Warnkönig, the "*Histoire du Droit*" of Lerminier, the "*Innere Geschichte des Romischen Rechts*," and the "*Aeussere Geschichte des R. R.*" of Tigerström, the "*Explication Historique des Instituts*" of Ortolan, Wheaton's "Elements of International Law," the "*Droit International Privé*" of Fœlix, and Story's "Conflict of Laws."

The Public Lectures will be delivered in the Hall of the Middle Temple on Tuesday in each week, at 2 p.m. (The first Lecture of the Course on Tuesday, April 25th.)

The Private Classes will assemble at the Class Room in Garden Court, on Monday, Wednesday, and Friday Mornings, at half-past 9 o'clock.

Common Law.

The Reader on Common Law proposes to deliver during the Educational Term, commencing the 15th April 1854, Twelve Public Lectures, the subjects to be treated of in which will be as under:—

On Mercantile Law.

Lecture I.—Inquiry as to the Origin and Progress of Mercantile Law in this Country; Specification of the principal Matters to which it applies itself.

Lecture II.—The Statute of Frauds, considered in relation to its Effect upon Mercantile Transactions.

Lectures III. and IV.—Of Negotiable Instruments; their peculiar Nature and Attributes.

Lecture V.—On the Admissibility of Evidence of Custom or Usage to explain Written Instruments.

Lecture VI.—Of the True Measure of Damages in Actions founded upon Contract.

On Criminal Law.

Lecture I.—Inquiry respecting the Elementary Principles of Criminal Jurisprudence, and the Object proposed in the Punishment of Crime.

Lecture II.—Of Indictable Offences generally; Distinction between Wrongs Indictable and Actionable; of Offences punishable on Summary Conviction.

Lectures III. and IV.—Of some of the more common Offences against the Person and Property.

Lecture V.—Examination of the Rules of Evidence ordinarily applicable in Criminal Cases.

Lecture VI.—On the Writ of Habeas Corpus.

With his Private Class the Reader on Common Law will traverse the ground indicated in the above prospectus, calling attention more especially to such matters falling within the scope of his inquiries as are of real practical importance. The books to be used with the Private Class will be—Smith's "Mercantile Law," 4th edit.; Story on "Agency," 4th edit.; Byles on "Bills;" Sedgwick "On the Measure of Damages;" Archbold's "Criminal

Prospectus, &c.—*cont.*

Pleading" (edition by Welsby); Lord Campbell's Acts (edition by Greaves), and Blackstone's Commentaries, vol. iv.

The Public Lectures on Common Law during the ensuing Term will be delivered, and the Private Classes will meet in the Hall of the Inner Temple as under.

The Public Lecture on Monday in each week, at 2 p.m.; the first Lecture to be delivered on Monday, April 24th.

The Private Class on Tuesday, Thursday, and Saturday mornings, from a quarter to 12 to a quarter to 2 o'clock.

By Order of the Council,
(Signed) EDWARD RYAN,
Chairman (*pro. tem.*)

Council Chamber, Lincoln's Inn,
23*d March* 1854.

Note. — The Educational Term commences on the 15th April, and ends on the 30th July 1854.

The several Readers will receive their respective Classes on the appointed days, commencing Wednesday the 19th April.

The Lectures and Classes will be suspended after Tuesday the 11th May, to be resumed on and after Monday the 29th May.

Rules for the Public Examination of the Students to be held on the 22d, 23d, and 24th days of May 1854. *Dated 9th March* 1854.

PUBLIC EXAMINATION.—Trinity Term, 1854.

The COUNCIL of LEGAL EDUCATION have approved of the following Rules for the Public Examination of the Students.

The attention of Students is requested to the following Rules of the Inns of Court:—

" As an inducement to Students to propose themselves for Examination, Studentships shall be founded of Fifty Guineas per annum each, to continue for a period of three years, and one such Studentship shall be conferred on the most distinguished Student at each Public Examination; and further, the Examiners shall select and certify the names of three other Students who shall have passed the next best Examinations; and the Inns of Court to which such Students belong may, if desired, dispense with any Terms, not exceeding two, that may remain to be kept by such Students previously to their being called to the Bar. Provided that the Examiners shall not be obliged to confer or grant any Studentship or Certificate, unless they shall be of opinion that the Examination of the Students they select has been such as entitles them thereto.

" At every Call to the Bar those Students who have passed a Public Examination, and have either obtained a Studentship or a Certificate of Honour, shall take rank in seniority over all other Students who shall be called on the same day.

" No Student shall be eligible to be called to the Bar who shall not either have attended during one whole year the Lectures of two of the Readers, or have satisfactorily passed a Public Examination."

RULES for the Public Examination of Candidates for Honours, or Certificates enti tling Students to be called to the Bar.

An Examination will be held in next Trinity Term, to which a Student of any of the Inns of Court, who is desirous of becoming a Candidate for a Studentship or Honours, or of obtaining a Certificate of fitness for being called to the Bar, will be admissible.

Each Student proposing to submit himself for Examination will be required to enter his name at the Treasurer's Office of the Inn of Court to which he belongs on or before Monday the 15th day of May next, and he will further be required to state in writing whether his object in offering himself for Examination is to compete for a Studentship or other honourable distinction, or whether he is merely desirous of obtaining a Certificate preliminary to a Call to the Bar.

The Examination will commence on Monday the 22d day of May next, and will be continued on the Tuesday and Wednesday following.

It will take place in the Benchers' Reading Room of Lincoln's Inn; and the doors will be closed ten minutes after the time appointed for the commencement of the Examination.

The Examination, by printed questions, will be conducted in the following order:—

Monday Morning, the 22*d May*, at half-past Nine, on Constitutional Law and Legal History; in the *Afternoon*, at half-past One, on Equity.

Tuesday Morning, the 23*d May*, at half-past Nine, on Common Law; in the *Afternoon*, at half-past One, on the Law of Real Property, &c.

Wednesday Morning, the 24*th May*, at half-past Nine, on Jurisprudence and the Civil Law; in the *Afternoon* at half-past One, a Paper will be given to the Students, including Questions bearing upon all the foregoing Subjects of Examination.

Rules, &c.—*cont.*

The Oral Examination will be conducted in the same order, during the same hours, and on the same subjects as those already marked out for the Examination by printed questions, except that on *Wednesday Afternoon* there will be no Oral Examination.

The Oral Examination of each Student will be conducted apart from the other Students, and the character of that Examination will vary according as the Student is a Candidate for Honours or a Studentship, or desires simply to obtain a Certificate.

The Oral Examination and printed questions will be founded on the books below mentioned, regard being had, however, to the particular object with a view to which the Student presents himself for Examination.

In determining the question whether a Student has passed the Examination in such a manner as to entitle him to be called to the Bar, the Examiners will principally have regard to the general knowledge of Law and Jurisprudence which he has displayed.

A Student may present himself at any number of Examinations, until he shall have obtained a Certificate.

Any Student who shall obtain a Certificate may present himself a second time for Examination as a Candidate for the Studentship, but only at one of the three Examinations immediately succeeding that at which he shall have obtained such Certificate; provided that if any Student so presenting himself shall not succeed in obtaining the Studentship, his name shall not appear in the list.

Students who have kept more than eleven Terms shall not be admitted to an Examination for the Studentship.

The Reader on Constitutional Law and Legal History will expect all Students to answer any general questions relating to the History of England, and to know the outlines of Constitutional Law.

The Candidates for distinction will be expected to know the progress of our Institutions, and the changes of our Constitution. They will be examined on the History of the Conqueror and his immediate Successors; on the Reign of Henry the Second; on the circumstances which led to the signing of Magna Charta. They will be expected also to know thoroughly the History of Elizabeth, of Charles the First, and of William the Third, and to give an account of the more remarkable State Trials from the time of James the First to that of Queen Anne.

The books for the ordinary Examination will be *Rapin and Hallam.*

Those for Candidates for distinction will be *Hallam, Rapin, Burnet, Millar, Clarendon, May,* the *State Trials,* and the *Parliamentary History.*

The Reader on Equity proposes to examine in the following books:

1. *Smith's Manual on Equity Jurisprudence,* the first seven chapters of *Story's Commentaries of Equity Jurisprudence,* Vol. I.; *Wigram's Points in the Law of Discovery* ("Introductory Observations" and "First Proposition"); *the Act for the Improvement of Equity Jurisdiction,* 15 & 16 Vict., c. 86.

2. *Mitford on Pleadings in the Court of Chancery; White and Tudor's Leading Cases* (with the Notes), Vols. 1. and 2.

Candidates for Certificates of fitness to be called to the Bar will be expected to be well acquainted with the books mentioned in the first of the above Classes.

Candidates for a Studentship or Honours will be examined in the books mentioned in the two Classes.

The Reader on the Law of Real Property proposes to examine in the following books and subjects:

1. Williams—*Real Property.*
2. *Learning of Powers.*—1 *Sugd. Pow.* chap. 1—4.
3. *The Alienation of Freehold Estates by Tenants in Tail and Married Women,* with reference to 3 & 4 Will. IV. c. 74.
4. *The Law of Perpetuity: with reference to the Doctrine Cy-Près, Powers of Sale and Exchange, and Powers of Appointment.*
5. *The Liability of Purchasers to see to the Application of their Purchase Money.*
6. *The Law of Settlement by Deed; with reference to Ante-Nuptial, Post-Nuptial, and Voluntary Settlements.*

Candidates for a Studentship or other honorary distinction will be examined in all the foregoing books and subjects. Candidates for a Certificate will be examined in 1, 2, 3.

The Reader on Jurisprudence and the Civil Law proposes to examine in the following subjects:

1. The Relation of Jurisprudence to Moral Philosophy. Austin, *Province of Jurisprudence determined,* Lect. V. Whewell, *Elements of Morality and Polity,* Book IV., Vol. 2. (Second Edition.) The Student must be prepared to indicate the points of conflict between these writers.

2. The Roman law of Servitudes, Prescriptions, Testaments, Legacies, and Fidei-Commissa. The modern Commentaries consulted may be, on the first two Subjects, *the Doctrina Pandectarum* of Mühlenbruch; and on the three last the *Institutiones* or *Commentarii Juris Romani Privati* of Warnkönig.

Rules, &c.—*cont.*

3. The Roman law of Civil Process at the era of Gaius. Gaius *Comment.* lib. iv. The Modern Treatises referred to may be the *Innere Geschichte des Römischen Rechts* of Tigerström, pp. 86, *et seq.*; or J. G. Phillimore's *Introduction to the Study of Roman Law*, pp. 16 *et seq.*

4. The Conflict and Harmony of Laws on the subject of Marriage and Divorce. Story, *Conflict of Laws*, chap. 5, 6, 7.

5. National Rights of Self-Preservation, Independence, and Equality. Wheaton, *Elements of International Law*, Part I., chap. 1. 2. 3.

Candidates for distinction will be examined in all the foregoing subjects.

Candidates for a Certificate will be examined in (4) and (5), and also in (2), so far as the subjects enumerated are treated of in the Institutes of Justinian.

The Reader on Common Law proposes to examine in the following books and subjects:—

1. The ordinary steps in an Action at Law.

2. The Parties to Contracts, *Smith's Lectures on Contracts*, VIII.—X. (omitting the note, commencing at p. 253).

3. Offences against Property; *Stephen Com.*, Book VI., chap. 5.

4. The Law of Landlord and Tenant, so far as it relates to the Right to Distrain, and the Obligation to Repair. *Woodfall, L. and T.*, 6th ed., Book 2, chap. 2, ss. 1—3; chap. 4., ss. 1 and 2.

5. The following Leading Cases, with the Notes thereto (*Smith's Leading Cases*, 3d edit.), *Semayne's Case;—The Six Carpenters' Case;—Price v. Earl of Torrington;—Higham v. Ridgway.*

Candidates for Certificates of fitness to be called to the Bar will be examined in the 1st, 2nd, and 3rd of the above subjects.

Candidates for the Studentships or for Honours will be expected to be conversant with all the above subjects.

By Order of the Council,

RICHARD BETHELL,
Chairman.

Council Chamber, Lincoln's Inn,
9th March 1854.

COPIES of PAPERS referred to in the Answers received from the Treasurers of the Middle Temple and Inner Temple.

LEGAL EDUCATION.

Rules for the guidance of the Readers in the delivery of their Public and Private Lectures.

The Council have approved of the following Rules for the guidance of the Readers in the delivery of their Public and Private Lectures, but they reserve the power of making any modification therein which may hereafter be found necessary:—

1. Each Reader shall deliver a course of not less than Six Public Lectures in the Educational Term commencing on the 1st November; a Course of not less than Nine Public Lectures in the Educational Term commencing on the 11th day of January, and a course of not less than Twelve Public Lectures in the Educational Term commencing on the 15th day of April in each year.

2. No Reader shall deliver more than One Public Lecture in any one week.

3. Each Reader shall submit to the Council, one month before the commencement of each Course of Lectures, a Programme of the Public Lectures he proposes to deliver.

4. Each Reader will be required to form a Class or Classes of Students, for the purpose of carrying them through an entire Course of preparatory education, by reading books with the Class, by examining the Students, and affording them personal instruction in a detailed form.

5. Each Reader will be expected to devote not less than Two Hours a day, on Three days of every week, in the three Educational Terms, to the instruction of his Class or Classes, in conformity with the preceding Rule.

6. It is the wish of the Council that all the Public Lectures be delivered in the Halls of the several Societies between the hours of Ten in the Morning and Four in the Afternoon.

7. The Council are desirous that a space of about two hours should be devoted by the Reader to the Students on the occasion of the delivery of each Public Lecture, in order that at the end of each Lecture sufficient time may be afforded to the Students, for the purpose of conversing with the Reader on the subject of the Lecture, and obtaining his advice and directions for the conduct of their Studies.

8. The Readers will arrange among themselves the hours for the attendance of their Classes, so as to prevent their interfering with each other.

9. Proper Rooms for the reception of their respective Classes will be provided for the Readers.

10. The Readers are desired to prepare a scheme for the Public Examinations of the Students, and to submit the same to the Council on the 1st day of November next; such scheme must state the mode of Examination, and the Books and Subjects with which the Candidates for Studentships and Public Honours will be expected to be well acquainted.

11. The first Public Examination will be held during the First Three days of Hilary Term, 1853. Rules, &c.—*cont.*

12. The Stipends of the Lecturers, of Three Hundred Guineas per annum, will commence from the 1st of September next; the division of the fees will be afterwards made at the discretion of the Council.

(Signed) RICHARD BETHELL,
Chairman.

Lincoln's Inn, May 19th, 1852.

ABSTRACT of the Accounts of the Council of Legal Education, from the 8th May, 1852, to the 1st September, 1853. Accounts of Council of Legal Education.

Dr. *To sums received.*

	£	s.	d.	£	s.	d.
Contributions from the Inns of Court for the Lectures and Studentships:						
Lincoln's Inn - -	444	3	4			
Inner Temple - -	444	3	4			
Middle Temple - -	444	3	4			
Gray's Inn - -	400	0	0			
				1,732	10	0
Fees paid by Students for Public Lectures:						
From Students admitted before the adoption of the New Rules, but brought within their operation by virtue of the 33d clause:						
Lincoln's Inn - -	467	5	0			
Inner Temple - -	257	5	0			
Middle Temple - -	126	0	0			
Gray's Inn - -	84	0	0			
				934	10	0
From Students admitted under the New Rules:						
Lincoln's Inn - -	357	0	0			
Inner Temple - -	351	15	0			
Middle Temple - -	178	10	0			
Gray's Inn - -	21	0	0			
				908	5	0
For Private Lectures or Classes:						
Lincoln's Inn - -	81	18	0			
Inner Temple - -	59	17	0			
Middle Temple - -	37	16	0			
Gray's Inn - -	18	18	0			
				198	9	0
Contributions from the Inns of Court for Contingent Expenses:						
Lincoln's Inn - -	50	0	0			
Inner Temple - -	*25	0	0			
Middle Temple - -	50	0	0			
Gray's Inn - -	50	0	0			
				175	0	0
				£3,948	14	0

* £25 received Sept. 29th, making a total of 50*l.* received from Inner Temple. This account closes September 1st 1853.

By sums paid. *Cr.*

	£	s.	d.	£	s.	d.
Stipends of the Readers:						
Five Readers, at 300 Guineas each, for the year ending 1st Sept. 1853 - - -	1,575	0	0			
Studentships:						
W. Whittaker Barry, Hilary Term - - - -	52	10	0			
M. E. Grant Duff, Trinity Term - - - -	52	10	0			
				1,680	0	0
Fees distributed to the Readers out of proceeds of Public Lectures:						
From sums received of students admitted before the adoption of the New Rules, but brought within their operation under the 33d clause of Report of Committee of Legal Education 61*l.* 12*s.* each Reader, for the year ending with Easter Term 1853 - - - - - -				308	0	0
Of the amount of fees paid by Students admitted of the several Inns, during the year ending with Easter Term, 1853, 154*l.* 7*s.* each Reader - - -				771	15	0
Private Lectures or Classes:						
Of the amount of fees received of Students for Admission to the Private Lectures or Classes during the year ending with Easter Term 1853, 39*l.* 1*s.* each Reader - - - -				195	5	0
For Contingent Expenses:						
Sundry Bills for Printing, to Midsummer 1853 * - -	86	16	0			
Amount of Bills for Lithographing, to Midsummer 1853 -	9	11	0			
Amount of Bills for Account, Minute, and other Books, Stationery, Postage Stamps, Petty Cash Payments, &c. -	33	5	2			
Gratuity to Clerk of the Council and others, and to Laundress for services rendered -	51	5	0			
				180	17	2
Balance of the account - -				812	16	10
				£3,948	14	0

* In this sum is included the Printer's Bill, amounting to 35*l.* 12*s.* 6*d.* in respect of the Report, &c. of the Committee on Legal Education.

NOTICE TO STUDENTS.

The following Regulations have been adopted by the Council of Legal Education:— Notice to Students.

As to Dispensation for Non-attendance at the Public Lectures.

All applications are to be addressed to the Reader in respect of whose Lectures dispensation is requested.

That the question of dispensation or non-dispensation for any particular Educational Term shall not be decided until after the whole Course of Lectures in such Term shall have been delivered.

No excuse to be admissible on the ground of illness unless the application is accompanied by a Medical Certificate.

Notice to Students.

As to the Private Classes.

That the Private Classes shall not assemble during the week commencing with the first day of the Public Examination.

As to the Public Examination.

That a Student may present himself at any number of Examinations until he shall have obtained a Certificate.

That any Student who shall obtain a Certificate may present himself a second time for Examination as a Candidate for Studentship, but only at one of the three Examinations immediately succeeding that at which he shall have obtained such Certificate; provided that if any Student so presenting himself shall not succeed in obtaining the Studentship, his name shall not appear in the list.

Students who have kept more than eleven Terms shall not be admitted to an Examination for a Studentship. [Order of the Council, January 1854.]

By Order of the Council,

M. Doyle.

Lincoln's Inn,
22*d June* 1853.

Copies of Papers referred to in the Answer received from the Treasurer of the Middle Temple.

Lincoln's Inn.

Rules of Council of Legal Education.

At a Meeting of the Council on Legal Education there held, the 21st day of May 1852, It was approved,—

That the Steward or Under Treasurer of each Inn, upon receiving the payments required by the 8th and 10th Regulations of the Report of the General Committee respectively, shall give to the Student a Ticket entitling him to Admission to the Lectures, or to the Classes in respect of which such payment shall be made, as the case may be; and on his first attendance at any Lecture or Class the Student shall inscribe his name in a Book to be provided for the Reader for that purpose.

The sums to be contributed by the respective Inns of Court will be as follows:—

For Contingent Expenses, the sum of 25*l.* from each Inn.

For the Readers and Studentships for the next year, Lincoln's Inn, Inner Temple, and Middle Temple, each 444*l.* 3*s.* 4*d.*, and Gray's Inn, 400*l.* Of the two latter sums, one moiety to be paid to the Account of the Council with Messrs. Child and Co. on the 1st of November next, and the remaining moiety on the 1st of May 1853.

The sums of 25*l.* from each Inn to be paid forthwith to the Account of the Council with Messrs. Child and Co.

The fees paid to the Treasurers of the respective Inns of Court by Students to entitle them to attend the Lectures or Classes of the Readers to be placed by the Treasurers, at the end of each Term, to the Account of the Council, with Messrs. Child and Co.

Copy 22 *May* 1852.

To the Treasurer of the Honourable Society of
the Middle Temple.

Lincoln's Inn.

Rules of Council of Legal Education.

At a Meeting of the Council on Legal Education there held the 21st day of May, 1852,

The following Rules touching the Admission of Students to the Lectures, and the exemption of Irish Students were approved, and copies directed to be sent to the different Inns of Court:—

"The attention of the Council having been called to the position of Students entering at the Inns of Court solely with a view to being called to the Irish Bar, it appears to the Council that the regulations with reference to the attendance at Lectures and passing Examinations contained in the Report of the Committee on the subject of Legal Education, which has been confirmed by the several Inns of Court, are applicable only to Students who are desirous of

being admitted to the English Bar; and that Students who have entered or shall enter themselves avowedly for the purpose of being called to the Irish Bar are not required to attend the Lectures, or to make the payment of Five Guineas mentioned in the 8th Regulation. Rules, &c.—*cont.*

"That in the opinion of the Council, all such Students as shall enter with the avowed intention of being called to the Irish Bar may be allowed to attend the Lectures and Classes on making the payments provided by the 8th and 10th Regulations respectively.

"That all Students who have entered for the English Bar, and have not kept more than four Terms by the first day of Trinity Term, are liable to the payment of Five Guineas."

Copy, (M. D.)

May 23, 1852.

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15 *November* 1852.

Resolved, That as a mode of securing the bonâ fide attendance of Students at the Public Lectures, it be a direction to the Officers attending the Halls to shut the Door for the admission of Students at the expiration of a quarter of an hour after the time appointed for the commencement of each Public Lecture, and to have the names of the Students who are present at the Conclusion of each Lecture entered in a Book.

29 *November* 1852.

The direction of the Council having been sought as to the construction to be put upon the 12th Rule respecting the attendance at Lectures, instruction was given by the Council that Students were not to be required to attend the two Courses of Lectures during one and the same year; but might attend one Course for and during one year, and another Course for and during another year. And also, that for the purpose of attendance at Lectures, the Educational year was not to be considered as commencing always with Michaelmas Term, but that any three consecutive Terms were to be accounted as making one whole year.

TABLE of the Days and Hours for the Delivery of the Public Lectures by the Readers appointed by the Inns of Court, and for the Attendance of the Private Classes.

Table of time appointed for the delivery of the Public Lectures, and for attendance of Private Classes.

The Reader on Constitutional Law and Legal History.	Lincoln's Inn.	*Public Lectures.* Wednesdays, 2 p.m.	*Private Classes.* Tuesdays, 9½ to 11½, a.m.	*Private Classes.* Thursdays, 9½ to 11½ a.m.	*Private Classes.* Saturdays, 9½ to 11½ a.m.
The Reader on Equity.	—	Thursdays, 2 p.m.	Mondays, 7 to 9 evening.	Wednesdays, 7 to 9 evening.	Fridays, 7 to 9 evening.
The Reader on the Law of Real Property, &c.	Gray's Inn.	Fridays, 2 p.m.	Mondays, ¼ to 12 to ¼ to 2 a.m.	Wednesdays, ¼ to 12 to ¼ to 2 a.m.	Fridays, ¼ to 12 to ¼ to 2 a.m.
The Reader on Jurisprudence and the Civil Law.	Middle Temple.	Tuesdays, 2 p.m.	Mondays. 9½ to 11½ a.m.	Wednesdays, 9½ to 11½ a.m.	Fridays, 9½ to 11½ a.m.
The Reader on the Common Law.	Inner Temple.	Mondays, 2 p.m.	Tuesdsys, ¼ to 12 to ¼ to 2 a.m.	Thursdays, ¼ to 12 to ¼ to 2 a.m.	Saturdays, ¼ to 12 to ¼ to 2 a.m.

TRINITY TERM, 1854.

The Educational Term commences on the 15*th of April and ends on the* 30*th July* 1854.

The Reader on Constitutional Law and Legal History will deliver his first Public Lecture on Wednesday the 19th April.

The Reader on Equity will deliver his first Public Lecture on Thursday the 20th April.

The Reader on the Law of Real Property, &c., will deliver his first Public Lecture on Friday the 21st April.

The Reader on Jurisprudence and the Civil Law will deliver his first Public Lecture on Tuesday the 25th April.

The Reader on the Common Law will deliver his first Public Lecture on Monday the 24th April.

The several Readers will receive their respective Classes on the appointed days, commencing Wednesday the 19th April.

The Lectures and Classes will be suspended after Thursday the 11th May, to be resumed on and after Monday the 29th May.

List of Numbers attending at the Public Lectures on Jurisprudence and the Civil Law.

Attendance at Public Lectures on Jurisprudence and the Civil Law.

Michaelmas Term, 1853.						Hilary Term, 1854.								
1st.	2d.	3d.	4th.	5th.	6th.	1st.	2d.	3d.	4th.	5th.	6th.	7th.	8th.	9th.
45	65	61	61	60	56	73	65	64	64	63	63	65	63	61

Attendance at Private Lectures or Classes.

Michaelmas Term, 1853.																		Hilary Term, 1854.					
1st.	2d.	3d.	4th.	5th.	6th.	7th.	8th.	9th.	10th.	11th.	12th.	13th.	14th.	15th.	16th.	17th.	18th.	19th.	1st.	2d.	3d.	4th.	5th.	6th.
4	6	7	12	10	11	11	10	8	8	10	8	10	10	6	10	9	9	5	9	8	9	10	10	8

Hilary Term, 1854—*cont.*

7th.	8th.	9th.	10th.	11th.	12th.	13th.	14th.	15th.	16th.	17th.	18th.	19th.	20th.	21st.	22d.	23d	24th.	25th.	26th.	27th.	28th.	29th.	30th.	31st.
7	7	7	6	9	7	7	6	8	8	6	9	8	8	6	7	7	8	7	6	6	9	8	7	9

Middle Temple.

Middle Temple Report of the Committee on Legal Education.

At a Parliament holden on the 21st November 1845, a motion having been made by *Mast^r Bethell,* of which the Notice was as follows, viz.—

"That, for promoting the Legal Education of the Students of this House, it is expedient that a Lecturer be appointed for the purpose of reading on Jurisprudence and the Civil Law; and that two or more Exhibitions be founded for the benefit of such Students as shall on Examination, previous to their Call to the Bar, show the greatest proficiency in the subjects of such Lectures; and that such Lectures be open to the attendance of Students of the other Inns of Court; and that from and after the first day of Easter Term 1846 no Student of this House be called to the Bar who shall not have attended one of such terminal Course of Lectures; and that the Societies of the other Inns be requested to concur with this Society in the establishment of similar Lectureships in other branches of Law; and that it be referred to a Committee to approve of proper regulations for carrying the above objects into effect;"

It was resolved and Ordered by the Bench

"That it is expedient that steps be taken for promoting the Legal Education of the Students of this House, and that it be referred to a Committee to ascertain and report to the Bench the best mode of carrying this resolution, and the objects mentioned in the above notice of motion, into effect."

Under the aforesaid Order, the Committee have made the following Report:—

To the Parliament, &c.

Your Committee, having entered on the inquiry directed to them as to the means to be adopted "for promoting the Legal Education of the Students," recommend that the steps to be taken by the Middle Temple should be such as are best adapted for the commencement of a sound and comprehensive Legal Education; for they have reason to hope that the plan, thus rightly begun, will be followed out and completed by the proceedings of the other Societies; so that the Institutions will be finally established by the several Inns shall afford to the Students collectively a complete Course of Legal instruction.

The Committee have also adverted to the acknowledged deficiency which has long been felt to exist in the education of English Lawyers, in consequence of their entire neglect of the study of Jurisprudence and the Civil Law; although in all places where Law has been or is taught as a science, these subjects have uniformly formed the first and one of the most essential parts of Legal Education. From these, and many other reasons to the like effect, the Committee are induced to recommend that the first step for the promotion of Legal Education to be taken by this House should be the appointment of a Reader on Jurisprudence

and the Civil Law. To illustrate the benefits which, in the view of the Committee, would result to the Legal Education of the Students from such an appointment, it may be well to explain the sense in which the Committee use the terms "Civil Law" and "Jurisprudence," and their consequent expectation of the province and duties of the Lecturer.

Middle Temple Report, &c.—*cont.*

By the term "Jurisprudence," the Committee mean to indicate General Jurisprudence as distinguished from the particular Jurisprudence of any individual nation; and which, in further explanation of their meaning, they would divide into positive Jurisprudence, or the philosophy of positive Law, and comparative Jurisprudence, or the exhibition of the principles of positive Law in an embodied form, by a comparison of the Jurisprudence of modern nations. In the first, they would have the Lecturer also include the important subject of the "Interpretation of Laws;" and under the latter head of comparative Jurisprudence the "Conflict of Laws" may with propriety be comprised.

By the term "Civil Law," the Committee wish to indicate what may be called "Modern Roman Law;" that is to say, those portions of the Civil Law which, being of an universal character, and applicable to the relations of modern society, have formed the basis of the Jurisprudence of many continental nations, and entered so largely into our own.

The Committee are of opinion that this study of the theory of the Civil Law may be most advantageously combined with the study of Jurisprudence, and that the two united will furnish the best means of preparatory Legal culture, and the formation of an enlarged and comprehensive Legal mind.

In lecturing on this subject, the Committee recommend that the Lecturer should read with the Class—first, the greater part of the Institutes, and then portions of the Pandects, accompanying that which is read with an exposition of the subject, tracing the rules and principles in the Jurisprudence of modern nations, and more especially in that of our own country.

The Committee believe that this plan, if properly carried out, will be of the greatest advantage to Students in the commencement of their studies; and that the transition which they desire should be constantly made from the principles of the Civil Law to corresponding portions of English Law, and the cases and judgments in the latter which are most illustrative either of the agreement or differences of the two systems, will effectually tend to ground the Students in a right apprehension of the principles of many of the most important portions of English Law as now practically administered. It is scarcely necessary to observe that to Students intended for the Equity Bar (and which now form a large proportion), this is the only fitting course of preparatory study.

The Committee recommend that the Lecturer should deliver three Terminal Courses, each consisting of twenty Lectures; the first Course between the first day of Hilary Term and the end of March, and the second between the first day of Easter Term and the 10th of July, and the third between the 26th of October and the 24th of December in every year. This division will give about two Lectures to every week, of which they recommend that one should be on Jurisprudence, and one on the Civil Law, making it the text for the exposition of English Law.

The Committee are aware that to render these Lectures attractive, superior qualifications will be required in the Lecturer, and that his remuneration from the Society should be ample. They think, however, that as an incentive to the Lecturer, part of the emolument should be dependent on the number of Students; and they propose, therefore, that the annual sum of Three Hundred Guineas should be received by the Lecturer from the Society, and that he should also receive from every Student One Guinea for each Terminal Course of Lectures.

The Committee think that, having regard to the obligation which by the Rules of the House is now thrown on the Students of attending "Readings" (which are merely nominal), and the fines imposed for non-attendance, each Student might well be required to attend at least one of the Terminal Courses previously to being called to the Bar; but at present the Committee recommend that no direction be given for enforcing attendance until some general system shall have been adopted in connexion with the other Societies. With respect to the term for which the Lecturer should be appointed, the Committee desire that there should be a succession of able Lecturers on such extensive subjects; but they are at the same time aware that the tenure of office should be sufficiently long to afford an adequate compensation for the labour of composing a well digested Course; and they therefore think that the Lecturer should be appointed for three years, to be computed from the end of six months from the date of such appointment, which preliminary period of six months is to be allowed for the composition of the Lectures, and in respect thereof the extra sum of One Hundred Guineas should be given if the Lecturer shall have discharged the duties of his office during the whole period for which he is to be appointed.

Thus the Lecturer will receive One Thousand Guineas from the Society, which, with the annual sums paid by the Students, the benefit of publication, and, as the Committee trust, the generous feeling of deserving well of the Profession, will form a sufficient inducement to men of the highest attainments to seek the office, and to be zealous in the performance of its duties.

With respect to the qualification of the Lecturer, the Committee recommend that he should be either a Barrister or a Doctor of Civil Law. The mode of the appointment of the Lecturer is a matter of some delicacy; and the Committee suggest that the Bench, having received the names and testimonials of the Candidates, should adopt some mode of nomination which may prevent all canvassing and personal solicitation.

Middle Temple Report, &c.—*cont.*

The Committee propose that the Lectures shall be opened to the Students of all the Societies.

The Committee next request the attention of the Bench to the second part of the system of Education they recommend to be adopted, and which consists in the institution of an annual Examination of Students proposed for the Bar, previous to their being called. The Committee do not propose that such Examination shall be made compulsory, but they think it highly desirable that an opportunity of distinguishing themselves should be afforded to all young men desirous of becoming advantageously known to the Profession in a legitimate manner; and they therefore propose that on the occasion of every call to the Bar the names of those Students who have submitted themselves to Examination shall be published by the Society, with such honourable addition as they shall appear to have deserved; and the Committee hope and believe that the attention of the Profession will be attracted to these lists, and that many young men will be found desirous of availing themselves of this unexceptional mode of becoming known and distinguished. The Committee propose that the Examination shall be conducted by three Benchers, assisted by the Lecturer; and that it shall consist of Questions in Jurisprudence, Common Law, Equity, and Conveyancing; to each of which Questions a numerical value shall be attached by the examining Benchers.

The Committee suggest that the Lectures should commence in October 1846, unless an able Lecturer can be found who is prepared to enter in Easter Term next on the duties of his office; and they also propose that the first Examination shall be held in Trinity Term, 1847.

The third recommendation of the Committee is necessary for the completeness of the institutions they desire to see established.

As an additional inducement to attendance at the Lectures, and to exertion at the Examination, the Committee propose that two Exhibitions or Prizes of One Hundred Guineas each should be given by the Society to the two Students, who, having diligently attended at least three Terminal Courses of Lectures, shall have passed the most meritorious Examination.

The Committee believe that these Exhibitions will not only prove to be a great incentive to attendance at the Lectures and at the Examination, but that they will also be found of great benefit to many young men of slender means; and the Committee trust that the number of these rewards may be hereafter augmented.

At a Parliament holden on the 16th day of January 1846, on the motion of *Mast^r Bethell*,

It was Ordered that the Report of the Committee on Legal Education be approved of and confirmed. And it was Ordered that a Lecturer be appointed, an Examination instituted, and two Exhibitions established in the manner and subject to the regulations recommended by the said Report.

And it was Ordered that it be referred back to the Committee to approve of such further regulations and details as might be requisite for the said several purposes, and to Report the same to the next Parliament; and the Committee were thereby empowed to take such steps as should be necessary to render public the wish of the Society to secure applications from gentlemen desirous of becoming candidates for the office of Lecturers, and also to communicate with the other Societies on these subjects.

Regulations for the Middle Temple Library.

First. The Library shall be open every Day in the Year from Ten o'Clock A.M., until Four, P.M., except on the days and times following, viz.:—1, every Sunday; 2, From Christmas Day to the Sixth of January, both inclusive; *3, From Good Friday inclusive till the Friday following exclusive; and 4, From the Twentieth of August exclusive to the First of October inclusive.

Second. Every Member of the Middle Temple (entered for the purpose of being called to the Bar, and not merely for holding Chambers,) shall be entitled to read in the Library, on producing a Certificate from the Under Treasurer of his admission to the Society.

Third. Every Member of the other Inns of Court, and of Doctors Commons, shall be admissible to the Library for Three Calendar Months, on producing an Order to that effect signed by two Benchers of the Middle Temple; Provided that all the above-mentioned Certificates and Orders be filed by the Keeper of the Library, and a List thereof submitted to the Masters of the Bench at the first Parliament of every Term.

Fourth. No Person admitted to the Library shall write in any Book, or otherwise mark or deface the same, nor shall Transcribers lay their Paper on any part of the Book from which they are transcribing.

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* 1854, May 5. Ordered, That when any of the days between Good Friday and the Friday following are in Term, the Library shall be open on such days (Easter Monday excepted), although the Courts may not sit on such days.

Regulations for the Middle Temple Library.

Fifth. No Person shall read at the fire, or otherwise subject any Book to be warped or damaged.

Sixth. All Persons shall abstain from conversation, and pursue their avocations in silence.

Seventh. No Person shall replace any Book on the shelves.

Eighth. No Person other than the Masters of the Bench or the Master of the Temple shall be admitted to the Gallery or to the Lower Rooms.

Ninth. Every Person not observing the foregoing Regulations may be precluded from the use of the Library.

Tenth. No Person other than the Masters of the Bench or the Master of the Temple, shall take out of the Library any Book whatever.

Eleventh. No Person shall take out of the Library any Book of General Reference.

Twelfth. No Person shall take out any Book except for his own use.

Thirteenth. All Books taken out shall be returned within One Fortnight, and an entry of such taking and return shall be forthwith made in the proper Register by the Keeper of the Library.

Fourteenth. The Keeper shall forthwith Report to the Master of the Library, or in his absence to the Treasurer, the loss or improper detention of any Book, or of any injury done to any of the Books.

ROBERT BUCKLEY COMYN,
Master of the Library.

Hilary Term, 1847.

1853, April 15. Ordered, That the Lecturer of this society be allowed to have Books out of the Library for the purposes of his Lectures.

COPIES of PAPERS referred to in the Answer received from the TREASURER of the INNER TEMPLE.

PROSPECTUS of the LECTURES to be delivered during the ensuing Educational Term by the several Readers appointed by the Inns of Court.

Prospectus of the Lectures to be delivered during the ensuing Educational Term by the several Readers appointed by the Inns of Court. *Dated 30th Oct.* 1852.

CONSTITUTIONAL LAW AND LEGAL HISTORY.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History during Michaelmas Term, 1852, will include the following subjects:—

First Lecture.

The Genius of the English Constitution, Civil and Ecclesiastical, contrasted with that of France during the Reign and at the Accession of Elizabeth.

Second and Third Lectures.

The Progress and Establishment of the Constitution during the Reigns of James the First and Charles the First until the breaking out of the Civil Wars.

Fourth and Fifth Lectures.

Proceedings in Parliament and the Courts of Justice from the Restoration to the Revolution.

Sixth Lecture.

The Revolution of 1688.

In his Private Lectures the Reader proposes to tread the same ground, but to follow more in detail the history of the period from the Accession of Elizabeth to the Revolution of 1688. He proposes, also, to illustrate the Character of our Institutions during that interval by a reference to those of France, to explain the causes which led to different results in the two countries.

The Text Books for the Private Lectures will be—

Lord Clarendon's History.
Lord Clarendon's Life.
May's History of the Parliament.
Hallam's Constitutional History.
First and Fourth Volumes of Blackstone.
State Trials from 1500 *to* 1688.
Brodie's Constitutional History, vol. 1.
Millar's Constitutional History.
Sullivan's Lectures.
Montesquieu's Esprit des Lois, liv. II. c. 6.
Burnet's History of the Church.
Hale's History of the Common Law.
Ralph's History.
Rapin.

The course of private tuition the Reader proposes to adopt is to take the first Volume of Hallam's Constitutional History, and Rapin's History of England from Elizabeth to William III.; to read it with his Students and question them upon it. He will also expect the Students to read the other books he has mentioned as the groundwork of his Class, and to be able to answer generally any question as to the outline of the facts and arguments which they contain bearing upon the period he has fixed upon before the termination of the Course.

Prospectus, &c.—*cont.*

The Reader on Constitutional Law and Legal History will deliver his Public Lectures at Lincoln's Inn Hall on Wednesday in each week during the Educational Term, commencing at 2 o'clock. The Reader will receive his Private Classes on Tuesday and Saturday in each week, from 2 o'clock until 4 p.m., in the Bencher's Reading Room at Lincoln's Inn.

Jurisprudence and the Civil Law.

The Council regret that in consequence of severe illness, the Reader on Jurisprudence and the Civil Law is at present unable to enter upon his duties; but Mr. Phillimore will receive the Private Classes on Jurisprudence and the Civil Law at the Bencher's Reading Room, in Lincoln's Inn, at 12 o'clock, on Monday and Thursday in each week of the Educational Term.

Equity.

The Reader on Equity proposes to give during the Educational Term, commencing on the 1st of November 1852, six Public Lectures on the History of the Court of Chancery; its Mode of Procedure, and the general principles on which justice is there administered.

Lecture I. The ancient office of Cancellarius; of Chancellor of England after the Norman Conquest. The Aula Regis. The Exchequer. Chancellor of the Exchequer. General View of the System on which Justice was administered. Share of the Chancellors and influence of the Civil Law in the formation of this System. Its advantages. The Power of the Council. How delegated to the Chancellor. The Subjects on which his authority was usually exercised. Its great extent and importance. Alterations in the Constitution and Practice of the Court.

Lecture II. The Custody of the Great Seal. Its Connexion with the Office of Chancellor. The Privy Seal and Court of Requests. The Court of Star Chamber. Common Law Jurisdiction of the Chancellor; his Jurisdiction over Charities and in Lunacy. Appellate Jurisdiction of the House of Lords.

Lecture III. Procedure of the Court of Chancery sitting as a Court of Equity. How related to that under the Civil Law. Bill of Complaint. Modes of compelling Appearance. Demurrer. Plea. Answer. Replication. Evidence. Decree.

Lecture IV. On the nature of the Relief granted by the Court of Chancery. Specific Performance. Discovery. Injunction. Mode of enforcing Decrees of the Court.

Lecture V. Principles on which the Equitable Jurisdiction of the Court of Chancery was established. Reference to the Rules of Conscience. Influence of the Study of Casuistry. The Jurisdiction of the Court gradually assumes a complete and settled form.

Lecture VI. General division of the Cases in which Relief is afforded by Courts of Equity. Where Relief cannot be obtained at Law. Where less perfect Relief can be obtained at Law than in Equity. Where the remedy at Law is inconsistent with Equity. Where a Court of Law requiries the assistance of a Court of Equity.

In addition to the Public Lectures, it is proposed that two Classes shall be formed for the study of the principles and practice adopted by Courts of Equity, each Class to meet for one hour three times a week. The Junior Class will read the 4th Chapter of the Third Book of "Blackstone's Commentaries," and Gilbert's "Forum Romanum." The Senior Class will read "Mitford's Treatise on Pleading in Chancery," and the "Selection of Leading Cases in Chancery," by White and Tudor. Each Student will be expected, in the interval between the meetings of the Class, to peruse portions of these and other works bearing on the same subject, pointed out by the Reader, and to be prepared at the ensuing meeting of the Class to answer and discuss questions arising out of the subjects of their reading.

The Reader on Equity will deliver his Public Lectures at Lincoln's Inn Hall, on Thursday in each week during the Educational Term, commencing at two o'clock, p.m. The Reader will receive his Private Classes on Monday and Friday evenings, at seven o'clock, and on Tuesdays, Thursdays, and Saturdays at half-past nine o'clock, a.m., in the Bencher's Reading Room, at Lincoln's Inn Hall.

Law of Real Property, &c.

Prospectus of a Course of Six Public Lectures, to be delivered by the Reader on the Law of Real Property, &c., in the Hall of Gray's Inn, during the First Educational Term, commencing the 1st of November 1852.

I.—Introduction. An Historical Review of the Modifications which the Municipal Law of this Country has at different times received, with reference to the Power of Alienating Real and Personal Property.

II.—An Inquiry into the Restrictions which have been Imposed upon the Power of Alienation.

1. From motives of Public Policy.
   a. By the Statutes of Mortmain, viz., 9 Hen. III. c. 36., 7 Edw. I. c. 2., 13 Edw. I. c. 32, 33., 18 Edw. I. c. 1., 15 Rich. II. c. 5., 7 & 8 Will. III. c. 37.
   b. By the Statutes of 9 Geo. II. c. 36. Under this head the whole Law of Charitable Uses will be entered into. [23 Hen. VIII. c. 10., 1 Edw. VI. c. 14., 43 Eliz. c. 4.]

Prospectus, &c.—*cont.*

c. By the Rule against Perpetuities.

d. By the Thellusson Act, 39 & 40 Geo. III. c. 98.

2. From a desire to protect the rights and interests of third parties as Creditors and Purchasers. [13 Eliz. c. 5., 27 Eliz. c. 4.]

An Outline of a Course of Lectures to be delivered by the Reader on the Law of Real Property, &c., to the Private Classes.

The object of the Private Classes being, *firstly*, to afford to the Students a course of elementary instruction on the principles that govern the Law of Property; and, *secondly*, to familiarize the minds of those who are more advanced with the ready application of those principles to practical purposes, by analysing the structure of Deeds and Wills, in connexion with the leading decisions of the Courts. The following outline is drawn up for the purpose of exhibiting, in a concise form, the order in which the subject of Property will be treated, and also of mentioning those works which will be either read or referred to in the Lecture:—

I. The leading distinctions between Real and Personal Property, arising out of the influence of Feudal Institutions, will be pointed out. As preparatory to the discussion of this subject, the perusal of the following parts of works is recommended:—

Hallam, Mid. Ages, ch. 2, p. 142; 1 *Steph. Com.*, 160; *Butler's Note to Co. Lit.* 191 *a, sect. I. II.*

II. The learning appertaining to Estates of a Freehold Tenure will be considered with reference to their quantity and quality—their rights and incidents.

Butler's Note to Co. Lit., 191 *a, sect.* 5; *Steph. Com.* 216; *Preston on Estates; Littleton on Tenures; Williams on Real Property.*

III. The division of Estates into Legal and Equitable, and the Effect of Uses and Trusts upon the Conveyance and Settlement of Land previous and subsequent to the Statute of Uses: the following authorities will be read in Lecture:—

Introduction to Sugden on Powers; 1 *Hayes' Convey; Butler's Notes to Co. Lit.*, 271 *b*, 290 *b; Fearn on Contingent Remainders.*

Attention is also directed to the Second and Five followings Chapters of the first Volume of *Spence's Equitable Jurisdiction;* 1 *Steph. Com.*, 328; *Sanders on Uses: Bacon's Reading on Uses; and Lewin on Trusts.*

IV. The Nature of Powers (1), as Common Law Authorities (2), as deriving their effect from the Statute of Uses; and (3), as Equitable Powers.

Butler's Note to Co. Lit., 271 *b. III.* (4); *Sugden on Powers.*

The discussion of the Doctrines of Real Property Law, in accordance with the above arrangement, will be accompanied by examples of their practical application to the art of Conveyancing, in the case of Sale, Mortgage, and Settlement; an analysis of the various Deeds by which Land is transferred will be entered into; the Language and Operation of each of their component parts will be explained; and the late alterations introduced by the Legislature, with reference to this part of the subject, will be examined.

Sugden, Vend. and Pur.; Jarman's Notes to Byth. Conv.; Davidson's Notes to Martin's Conv.

V. The different modes of Alienation by Act *inter vivos* having been lectured on, the Power of Testamentary Disposition will form the next subject of inquiry.

Under this division, the difference that exists between a gift by Will of Real Property and a gift by the same instrument of Personal Property will be explained; the leading principles by which the Courts are guided in construing Wills will be investigated, and the effect of the late Legislative measures (1 Vict. c. 26. and 15 & 16 Vict. c. 24.) in improving and settling the practice and construction of Wills, will be considered.

Roper on Legacies; Jarman on Wills; Williams on Executors; Fearne on Executory Devises.

The Reader on the Law of Real Property will deliver his Public Lectures at Gray's Inn Hall, on Friday in each week, during the Educational Term, commencing at two o'clock p.m. The Reader will receive his Private Classes in the North Library at Gray's Inn Hall, on Monday in each week, from two to four, p.m., on Wednesday and Friday mornings at half-past nine, and on Thursday evenings at seven o'clock, p.m.

The Council having unexpectedly received, on the 29th instant, information that Mr. Willes had on that day resigned the office of Reader on the Common Law, are unable for the present to announce any Lectures in that department.

The Readers on Constitutional Law and Legal History or Equity, and on the Law of Real Property, will receive and communicate with the gentlemen desirous of attending their respective Classes, at the conclusion of the first Public Lectures.

(Signed) Richard Bethell,
Chairman.

Council Chamber, Lincoln's Inn,
30*th October* 1852.

Public Examination, Hilary Term, 1853.

Rules for the Public Examination of the Students, to be held on the twenty-second, twenty-fourth, and twenty fifth days of Jan., 1853. Dated 11th December 1852.

The Council of Legal Education have approved of the following Rules for the Public Examination of the Students. To afford a longer period for preparation the Council hav postponed the Examination until the 22nd, 24th, and 25th days of January 1853.

The attention of the Students is requested to the following rules of the Inns of Court :—

"As an inducement to Students to propose themselves for Examination, Studentships shall be founded of Fifty Guineas per annum each, to continue for a period of Three Years, and one such Studentship shall be conferred on the most distinguished Student at each Public Examination ; and further, the Examiners shall select and certify the names of three other Students who shall have passed the next best Examination, and the Inns of Court to which such Students belong may, if desired, dispense with any Terms, not exceeding two, that may remain to be kept by such Students previously to their being called to the Bar. Provided that the Examiners shall not be obliged to confer or grant any Studentship or Certificate unless they shall be of opinion that the Examination of the Students they select has been such as entitles them thereto.

"At every call to the Bar those Students who have passed a Public Examination, and either obtained a Studentship or a Certificate of Honour, shall take rank in seniority over all other Students who shall be called on the same day."

Rules for the Public Examination of Candidates for Honours, or Certificates entitling Students to be called to the Bar.

An Examination will be held in next Hilary Term, to which a Student of any of the Inns of Court, who is desirous of becoming a candidate for a Studentship or Honours, or of obtaining a Certificate of fitness for being called to the Bar, will be admissible.

Each Student proposing to submit himself for Examination will be required to enter his name at the Treasurer's Office of the Inn of Court to which he belongs on or before Wednesday the 12th day of January next, and he will further be required to state in writing whether his object in offering himself for Examination is to compete for a Studentship or other Honourable distinction, or whether he is merely desirous of obtaining a Certificate preliminary to a call to the Bar.

The Examination will commence on Saturday the 22nd of January next, and will be continued on the Monday and Tuesday following.

Each of the three days of Examination will be divided as under :—

From half-past Nine, a.m., to half-past Twelve.

From half-past One, p.m., to half-past Four.

The Examination will be partly Oral, and partly conducted by means of Printed Questions, to be delivered to the Students when assembled for Examination, and to be answered in writing.

The Oral Examination and Printed Questions will be founded on the Books below mentioned, regard being had, however, to the particular object, with a view to which the Student presents himself for Examination.

In determining the question whether a Student has passed the Examination in such a manner as to entitle him to be called to the Bar, the Examiner will principally have regard to the general knowledge of Law and Jurisprudence which he has displayed.

The Reader on Constitutional Law and Legal History proposes to examine on the following Books:—

Hallam's Constitutional History, vols. 1 *and* 2. *Clarendon's History of the Rebellion, vols.* 1 *and* 2. *May's History of Parliament.*

Rapin's History of the Reigns of Elizabeth to James the Second, inclusive.

Those who present themselves to obtain distinction will be examined more minutely, and expected to answer more difficult questions drawn from the same sources, and to be acquainted with the important Statutes and Trials of the period, and also to answer questions relating to the progress and alterations of English Law during the aforesaid reigns.

The Reader on Equity will examine in the following Books:—

1. *Milford on Pleadings in the Court of Chancery ; Calvert on Parties to Suits in Chancery, chap.* 1 *and* 2 *; Story on Equity Jurisprudence, vol.* 1, *and chapters* 17 *and* 18, *vol.* 2 *; the Act for the Improvement of Equity Jurisdiction,* 15 *&* 16 *Vict. c.* 86.
2. *Sir James Wigram's Points in the Law of Discovery, "Defence by Plea" ; the remainder of Story's Equity Jurisprudence, vol.* 2 *; the principal cases in White and Tudor's Leading Cases, vols.* 1 *and* 2.

Candidates for Certificates of fitness to be called to the Bar will be expected to be well acquainted with the Books mentioned in the first of the above Classes.

Candidates for a Studentship or Honours will be examined in the Books mentioned in the two Classes.

Rules, &c.—*cont.*

The Reader in Jurisprudence and the Civil Law proposes to examine in the *Roman Law of Persons*, as contained in the Institutes of Justinian, and as explained and illustrated by Heineccius (*Elementa Juris Civilis*) and Bowyer (*Modern Civil Law*).

Candidates for a Studentship or other distinction will be expected to answer all questions of principle suggested by the text of the Institutes, They will also be examined in Mackintosh—*Law of Nature and Nations;* Bentham—*Principles of International Law*, vol. 2, pp. 535 et seq. of Bowring's edition; Montesquieu—*Esprit des Lois*, livre 28; Spence—*Equitable Jurisdiction of Court of Chancery*, part 1, book 1, chap. 7; part 1, book 2, chap. 7; part 1, appendix; Story—*Conflict of Laws*, chapter on "Capacity of Persons," and "Homicide."

Candidates for a Certificate will be examined exclusively in Bowyer—*Modern Civil Law*, chap. 1 to chap. 12; Mackintosh—*Law of Nature and Nations;* Spence—*Equitable Jurisdiction of Court of Chancery*, part 1, book 1, chap. 7; Story—*Conflict of Laws*, chapter on "Capacity of Persons."

The Reader on the Law of Real Property proposes to examine in the following books and subjects:—

Books:

Class I.—*2 Black's Com., or 1 Steph. Com., book 2.; 1 Spence's Eq. Jur., book 2, chap. 4, book 3, chap. 1-7; Cru. Dig., tit. 11, 12, 16.; Butler's Notes to Co. Lit. 191 a, sect. 2, 5, 271 b.*

Class II.—*Shelford on Mortmain, chap. 3; Roper on Legacies, chap. 19; Lewis on Perpetuity, and Jarman on Wills*, with reference to 1 Vict. c. 26, ss. 28, 29.

Subjects:

Class I.—The Nature of Estates of Freehold Tenure,—their Quantity and Quality,—their Rights and Incidents. The Nature and Properties of Uses and Trusts, prior and subsequent to the Statute of Uses. The Origin and Nature of a Lease and Release as an ordinary mode of Assurance.

Class II.—The alterations effected by the Legislature during the last preceding and present Reigns in the Practice of Conveyancing. The Law of Mortmain, including therein the Law affecting the Alienation of Lands to Corporations, and the disposition of Property to Religious and Charitable Purposes. The Law of Settlement; its effect upon the Rights and Liabilities of Husband and Wife, as exemplified in the Case of Marriage Articles, Ante-Nuptial and Post-Nuptial Settlements, and upon the Rights of Creditors and Purchasers under 13 Eliz. c. 4, and 27 Eliz. c. 5.

Students offering themselves for the Public Examination, and *not* going out in Honours, will be expected to be well acquainted with the Books and Subjects comprised in Class I.

Students offering themselves for the Public Examination, and who are candidates for Studentships or Honours, will be expected to answer questions drawn from the Books and subjects comprised in Class I. and Class II.

The Reader on Common Law proposes to examine in the following Subjects and Books:—

Class I.—As to the Nature of the Common Law generally (*Stephen, Com.*, vol. 1, Introd. s. 3.). The Law of Principal and Agent, and of Bills of Exchange and Promissory Notes (so far as treated of in *Smith's Merc. Law*, 4th ed., book 1, chap. 5, and book 3, chap. 1.). The Law respecting Tenancies from year to year, and for shorter periods (*Woodfall on Landlord and Tenant*, 6th ed., book 1, chap. 5, ss. 1, 2.) The Law respecting Larceny and obtaining Money by False Pretences (*Arch.* Cr. Pl., 12th ed., book 2, part 1, chap. 1, ss. 1 and 3.)

Class II.—The Law of Partnership and Corporations (so far as treated of in *Smith's Merc. Law*, 4th ed., book 1, chap. 2 and 4. The Law of Distress (*Woodfall, Landlord and Tenant*, 6th ed., book 2, chap. 2, ss. 1, 2, 3). The Cases of Ashby v. White (1 *Smith, L. Cas.*, p. 105), and *Marriott v. Hampton* (2d Ed., p. 237) with the Notes thereto. The Common Law Procedure Act, 15 & 16 Vict. c. 76., so far as it treats of the Writ, Appearance, Joinder of Parties, and of Causes of Action (ss. 1-41).

Students desiring merely to obtain a Certificate to be called to the Bar will be examined in the Books and Subjects comprised in Class I.

Candidates for Studentships or Honours will be expected to be familiar with the Books and Subjects specified in both the above Classes, and also with Leading Cases, if any, bearing upon the several branches of Law therein enumerated, decided since the last editions of the Books above mentioned.

By Order of the Council,

Council Chamber, Lincoln's Inn,
11*th December* 1852.

Richard Bethell, Chairman.

Prospectus of the Lectures to be delivered during the ensuing Educational Term by the several Readers appointed by the Inns of Court. *Dated 10th Jan.* 1853.

Prospectus of the Lectures to be delivered during the ensuing Educational Term by the several Readers appointed by the Inns of Court.

Constitutional Law and Legal History.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History during Hilary Term, 1853, will comprise the following period :—

The Progress and History of Constitutional Law, from the Revolution of 1688 to the accession of the House of Brunswick.

Declaration of Rights—Bill of Rights—Civil List Bill—Conduct of the Whigs—Improvements and Changes in the Constitution—Triennial Act—Liberty of the Press—Toleration Act—Law of Treason—Act of Settlement—The Restraints on the Crown—Place Bill—Changes in the Constitution of Parliament—Judges made Independent of the Crown—Trials of Fenwick and Charnock—Character of Judicial Proceedings—Correspondence and Intrigues with James II.—Reign of Anne—Struggle of Parties—Sacheverell's Trial—Speeches of Managers—Intrigues of the Jacobites—Tory Administration—Peace of Utrecht—Union of England and Scotland—Substitution of Influence for Prerogative in the Contest between Crown and Parliament.

In his private Lectures the Reader will traverse the same ground and examine his pupils minutely on the different subjects of which the Public Lecture treats. He will dwell particularly on the course of Legislation and the proceedings in our Courts of Justice.

The Text books and the books of reference will be—

Tindal's Continuation of Rapin.
Hallam's Constitutional History, vol. 2.
Millar on the English Government and Civilization.
Bolingbroke's Letter to Sir W. Wyndham, and 7th Letter on History.
Lord Halifax's Works.
Macintosh on the Revolution.
Burnett's Memoirs.
Fox's Historical Fragment.
Somerville's Reign of Queen Anne.
State Trials.
Statute Book.
Somer's Tracts.
State Tracts.
Mably's Histoire du Droit Public de l'Europe.
Coxe's Marlborough.

The Reader on Constitutional Law and Legal History will deliver his Public Lectures at Lincoln's Inn Hall, on Wednesday in each week during the Educational Term, commencing at two o'clock. The Reader will receive his Private Classes in the Bencher's Reading Room, at Lincoln's Inn, on Tuesday, Thursday, and Saturday mornings in each week, from half-past nine to half-past eleven o'clock.

Equity.

The Reader on Equity proposes to give during the Educational Term, commencing on the 11th January, 1853, nine Public Lectures on the Doctrine and Practice of the Court of Chancery with respect to Trusts and Mortgages.

First Lecture.

Origin of Uses and Trusts—How Related to the Fidei Commissum and Ususfructus of the Roman Law—The Feudal Tenures of Land in a great measure subverted by the Court of Chancery—Unsuccessful Attempt of the Legislature to Resist the Change—A Greater Alteration effected by the Statute of Uses in the Legal than in the Equitable System—Trusts since the Statute of Uses—In what manner directly created in Real and Personal Estate.

Second Lecture.

The Office of Trustee—Duties, Responsibilities, and Rights attached to it—Its Commencement and Termination—Remedies of Cestui que Trust.

Third Lecture.

Equitable Estates—Their Analogy to Legal Estates at Common Law—Æquitas sequitur Legem—Under what Restrictions this Maxim is Applicable.

Fourth Lecture.

Trusts by Operation of Law—The Doctrine of Notice—Conflicting Equities—Advantage given to the Possessor of the Legal estate—Registration of Deeds.

Fifth and Sixth Lecture.

Rights of Married Women in a Court of Equity—Trusts for their Separate Use—Incidents of such Trusts—How affected by General Engagements—Restraints on Alienation—Equitable Choses in Actions—Wife's Right to a Settlement out of her Property.

Seventh Lecture.

Trusts for Charitable Purposes—Their Construction—Doctrine of Cy-Près—In what Manner such Trusts are enforced by Courts of Equity.

Prospectus, &c.—*cont.*

Eighth Lecture.

Doctrine of Equity with regard to Mortgages.

Ninth Lecture.

Doctrine of Equity with regard to Conversion, Satisfaction, and Election.

In addition to the Public Lectures, it is proposed that two Classes shall be formed for the study of the Principles and Practice adopted by Courts of Equity, each Class to meet for one hour three times a week. The Junior Class will read Portions of Story's Commentaries on Equity Jurisprudence, and Mitford's Treatise on Pleadings in Chancery. The Senior Class will read the remaining Portion of the latter work, beginning with Chap. II. sec. 2, part 2., portions of Story's Commentaries, and the remaining Cases in White and Tudor's Leading Cases, beginning with Duke of Ancaster v. Mayer. Each Student will be expected, in the interval between the meetings of the Class, to peruse portions of these and other works bearing on the same subject pointed out by the Reader, and to be prepared, at the ensuing meeting of the Class, to answer and discuss questions arising out of the subjects of their reading.

The Reader on Equity will deliver his Public Lectures at Lincoln's Inn Hall on Thursday in each week during the Educational Term, commencing at two o'clock p.m. The Reader will receive his Private Classes on Monday, Wednesday, and Friday evenings in each week, from seven to nine o'clock, in the Bencher's Reading Room at Lincoln's Inn Hall.

Law of Real Property, &c.

Prospectus of a Course of Nine Public Lectures, to be delivered by the Reader on the Law of Real Property, &c., in the Hall of Gray's Inn, during the Second Educational Term, commencing the 11th day of January 1853.

In the ensuing Course of Lectures the Reader proposes to continue the Inquiry into the restrictions which have been imposed upon the Power of Alienation, with reference to:—

I. The Rule against Perpetuities, as exemplified,—

1. In the Case of Testamentary Limitations of Personalty on Failure of Issue.
2. By the Doctrine of Approximation of Cy-Près.
3. In the case of Unrestricted Powers.
4. By Trusts of Accumulation, as Governed by the 39 & 40 Geo. 3. c. 98.

II. Voluntary Conveyances and Settlements, and the Operations of the 13 Eliz. c. 5. and 27 Eliz. c. 4.

III. Restrictions against Alienation.

1. Where the Restraint is Annexed to an Absolute Gift of the entire property, and there is a gift over in the event of Bankruptcy or Insolvency.
2. Where the Restraint is annexed to a gift to a Married Woman by a clause against Anticipation.

An Outline of a Course of Lectures to be delivered by the Reader on the Law of Real Property, &c. to the Private Classes, during the Second Educational Term, commencing the 11th of January 1853.

In the Private Classes the Reader proposes to discuss the following subjects:—

With the Junior Class, the Nature of Remainders, Vested and Contingent, in connexion with the following portions of works:—1 *Steph. Com. chap.* 7; *Williams on the Law of Real Property, part* 2, *chap.* 1, 2.; *Cruise, Dig. tit.* 16; and the more elementary sections of *Fearne on Contingent Remainders.*

With the Senior Class, the Learning of Powers, with especial reference to:—

1. Powers of Sale, their exercise by persons filling a fiduciary character, as Trustees, Executors, and Mortgagees, and the Liability of Purchasers to see to the application of their Purchase Money.
2. The Exercise of Powers by Married Women.
3. Powers of Appointing to Children.
4. The Excessive and Defective Execution of Powers.
5. The Execution of Testamentary Powers, and the effect of 1 Vict. c. 26.

In addition to an Examination of the principles and authorities commented on in the last edition of *Sugden on Powers,* the Reader will also direct the attention of the Students to the latest Cases that have been decided on these subjects.

The Public Lectures will be delivered at Gray's Inn Hall on Friday in each week during the Educational Term, with the exception of Friday the 28th instant, commencing at two o'clock. The Reader will receive his Private Classes in the North Library at Gray's Inn Hall, every Monday, Wednesday, and Friday mornings in each week, from a quarter to twelve to two o'clock.

Jurisprudence and the Civil Law.

The Reader on Jurisprudence and Civil Law proposes to deliver, in the ensuing Educational Term, a course of Public Lectures on the following subjects:—

I. On the Province of Jurisprudence, and on the definitions of "Law," "Right," and "Duty."

Prospectus, &c.—*cont.*

II. On Theories of Natural Law.

III. On the Roman Civil Law, and its Relation to General Jurisprudence.

IV. On Principles of Classification in Jurisprudence.

V. VI. On the Sources of the Law of Persons.

VII. VIII. Of Proprietory and Possessory Rights.

IX. On Theories of Natural Acquisition.

The Reader also proposes to deliver a series of Lectures to his Private Classes, on the Law of Things. The order of the topics under treatment will, generally speaking, be that which is observed in the Institutes of Justinian; but the text of Gaius will occasionally be made the basis of the Lecture. Particular attention will be paid to the Law of Possession, to the Law of Natural Acquisition, to the Law of Capture in War (as dependent on Occupancy), to the Law of Servitude, to the Law of Testamentary Disposition, and to the Law of Verbal and Consensual Contracts.

The modern authorities most frequently referred to will be *Heineccius*, *Donellus*, *Warnkönig*, and *Mackeldei*. The Law of Possession will be discussed in connexion with *Savigny's* Treatise on Possession. In the Lectures on the Law of Capture, portions of the writings of *Legré* will be selected for especial Examination; and, in those on the Law of Contract, constant reference will be made to the Treatise of *Pothier* on Obligations, and to the work of *Troplong* on the same subject.

The Public Lectures on Jurisprudence will be delivered in the Middle Temple Hall, on Tuesdays, at two p.m. (the first Lecture to be delivered on the 18th of January). The Members of the Private Classes are requested to attend at the same place on Monday, Wednesday, and Friday mornings in each week, at half-past nine o'clock.

Common Law.

The Reader on Common Law proposes to give, during the Educational Term, commencing on the 11th of January 1853, a Course of Ten Public Lectures upon the following subjects:—

I. The Origin, History, and Extent of the Jurisdiction of each of the Three Superior Courts of Common Law.

II. The Constitution of the Superior Courts—The Ordinary Mode of Conducting Business there; and General Principles upon which Justice is administered by them.

III. Definition of an Action at Law—The nature of Legal Rights and Remedies—The Forms of Action.

IV. and V. The Parties to Actions; whether founded on Contract or Tort; by what rules to be determined—Joinder of Parties, and Consequences of Nonjoinder.

VI. Notice of Action; in what Cases requisite—The Writ of Summons; how Issued and Served—Proceedings against Parties resident out of the Jurisdiction—The Appearance, and Judgment in default of Appearance.

VII. and VIII. The Pleadings in an Action at Law, and Practice connected therewith—Rules of Pleading; how Affected by the Common Law Procedure Act, (15th & 16th Vict. c. 76.)—The Joinder of Issue and Notice of Trial.

IX. The Trial at Nisi Prius, and Matters Incidental thereto—The Practice as to the Admission of Documents—Rules of Evidence of Ordinary Application.

X. Of Execution, and Proceedings subsequent to Judgment.

The Reader proposes with his Private Class to examine minutely the various steps in an Action at Law, and the practice connected therewith, so that the Private Lectures during the ensuing Educational Term will include, interalia, the subjects treated of in the fourth and subsequent of the Public Lectures. He will read with the Class portions of the 1st vol. of "Chitty on Pleading," (7th edition), especially pointing out all the changes in practice and Pleading recently effected. He will also read those parts of Chitty on Contracts not under Seal, which relate to Contracts generally, Illegal Contracts, and Contracts with particular persons (chapters I., II., and IV.), and some of the Cases out of Smith's Leading Cases, with the notes thereto.

The Reader on Common Law will deliver his Public Lectures in the Inner Temple Hall, on Monday in each week (except on Monday, January 24th), during the ensuing Educational Term, commencing at two p.m.

The Reader will receive his Private Class in the Hall of the Inner Temple, on Tuesday, Thursday, and Saturday mornings in each week (except on Tuesday, January 25th), from quarter to twelve to quarter to two o'clock.

By Order of the Council,

(Signed) Richard Bethell, Chairman.

Council Chamber, Lincoln's Inn,
10*th January* 1853.

Rules for the Guidance of Students presenting themselves for the Public Examination, to be held on the 22nd, 24th, and 25th Days of January 1853.

Rules for Guidance of Students at Public Examination.

The Public Examination will take place in the Benchers' Reading Room of Lincoln's Inn; and the Doors will be closed Ten Minutes after the time appointed for the commencement of the Examination.

The Examination by Printed Questions will be conducted in the following Order:—

Saturday Morning, the 22nd instant, on Constitutional Law and Legal History; in the *Afternoon,* on Equity.

Monday Morning, the 24th instant, on Common Law; in the *Afternoon,* on the Law of Real Property, &c.

Tuesday Morning, the 25th instant, on Jurisprudence and the Civil Law; in the *Afternoon,* a paper will be given to the Students including Questions bearing upon all the foregoing subjects of Examination.

The Oral Examination will be conducted in the same Order, during the same Hours, and on the same Subjects as those already marked out for the Examination by Printed Questions, except that on *Tuesday Afternoon* there will be no Oral Examination.

The Oral Examination of each Student will be conducted apart from the other Students; and the character of that Examination will vary according as the Student is a Candidate for Honours or a Studentship, or desires simply to obtain a Certificate.

By Order of Council.

Edward Ryan, Chairman.

13*th January* 1853.

Public Examination.—Hilary Term, 1853.

Public Examination.

Saturday Morning, January 22nd, 1853. *From Half-past Nine to Half-past Twelve.*

Questions on Constitutional Law and Legal History.

1. Give an account of the Genius and Character of the English Constitution on the Accession of Queen Elizabeth.

2. What were the features of the English Constitution that had remained unaltered from the time of Edward the First to that when Charles the First succeeded to the throne?

3. In what were the Securities of our Freedom defective on the Accession of James the First?

4. What was the Title of James the First to the Throne of England? If Hereditary Right were exclusively considered, was the Title of James the First to the English Crown superior to every other? What were those that could be placed in the balance with it? State the instances in which, since the Conquest, Hereditary Right had been set aside in the Accession to the English Crown.

5. Give an account of the principal Religious Sects into which England was divided during the reign of Elizabeth; and of the Penal Laws enacted to suppress Dissent of any kind from the Established Church.

6. What was the Policy of Elizabeth in maintaining her Ecclesiastical Authority?

7. Did Elizabeth increase the number of the House of Commons?

8. How did her Policy towards her Parliaments differ from that of James and Charles the First?

9. What was the great object of the Policy of James during the latter part of his reign?

10. How was it defeated?

11. What was the conduct of James towards his Parliaments?

12. How did he endeavour to raise Money?

13. What was his conduct towards his Judges? Give an account of his conduct on the Election of Fortescue and Goodwin.

14. Give an account of his Policy towards the Church.

15. When was the Petition of Right passed? By what evils was it occasioned? What was the conduct of the King in passing it? What was its effect? How was it observed?

16. Name the Leaders of the Opposition to the Government of Charles the First, in the year 1640. What particular abuse did Mr. Hyde attack? State your opinion of the Proceedings against Lord Strafford.

Public Examination.—Hilary Term, 1853.

Public Examination.

Saturday Afternoon, January 22nd. From Half-past One to Half-past Four.

Equity.

1. What is Aristotle's definition of Equity? By whom has it been adopted? Distinguish the various significations in which the word Equity is used.
2. From what source and in what manner did the Court of Chancery take its origin?
3. On what considerations were the decisions of the earlier Chancellors principally founded?
4. What opinion has Lord Bacon expressed as to separating the administration of Equity from that of Common Law?
5. In what manner has the Jurisdiction of the Court been extended by its acting *in personam?* Give instances of its acting *in rem* at the present and at an early period.
6. Within what limits is the right to Discovery restricted in Equity? What were the points relating to discovery decided in *Hardman v. Ellames*, and what were the objections raised to that decision?
7. What was the doctrine of a Court of Equity with respect to the Residue of Personal Estate where an executor has been appointed, previously to the Statute 11 Geo. 4. & W. 4. c. 40., and on what grounds did the doctrine rest?
8. Explain the present mode of taking the Evidence of witnesses in the Court of Chancery, and point out the disadvantages of the former system.
9. In what cases will a written instrument be decreed to be delivered up by the Court of Chancery?
10. Distinguish between the cases of mistakes in Law and mistakes in fact, with regard to the relief afforded by Courts of Equity?
11. A suit having been instituted, praying it may be declared that the defendant is trustee for the plaintiff and his heirs, of an estate vested in the defendant for a legal estate of fee simple; the plaintiff dies after witnesses have been examined, but before decree. In what manner can a devisee, under the plaintiff's will of the estate in question, obtain the benefit of the former proceedings?
12. Who are in general the necessary Parties to a Suit in Equity? Explain the doctrine of Representation with respect to parties.
13. In what cases will *suppressio veri* invalidate a contract for sale?
14. Explain the doctrine of Cy-Près.
15. Where a contract is entered into, by which a person agrees to do certain acts, and not to do certain other acts, will the Court of Chancery grant any relief, if it cannot decree specific performance of the acts agreed to be done? Mention the leading cases which have occurred on this subject?
16. Explain the rule, that a defendant who answers at all must answer fully.
17. Explain the mode in which an Injunction against Proceedings at Law was obtained previously to the Act 15 & 16 Vict. c. 86., and state the alteration in the practice occasioned by the Act, with the reasons on which the alteration was grounded.
18. In what cases will a Bill of Interpleader lie in Equity, and by what document must it be accompanied?
19. What are the general rights of a surety who pays off the bond of his principal? Apply this doctrine to the case of a joint bond executed by a principal and his surety; and show whether the surety, who has paid the bond in the lifetime of the principal, is to be considered as a specialty or simple contract creditor.
20. What is meant by "marshalling Assets?" Apply the doctrine to the case of a pecuniary legatee and the devisee of an estate subject to a mortgage. Give the reason on which this application is founded.

Public Examination.

Public Examination.

Monday Morning, January 24th. From Half-past Nine to Half-past Twelve.

On the Common Law.

1. State shortly the principal sources from which our Common Law has been derived; and explain what is meant by the *lex non scripta* as opposed to the *lex scripta.*
2. What is meant by a "Custom?" And what are the qualities specified by Blackstone as essential to its validity?
3. What is the general maxim upon which the law of Principal and Agent depends? Give some ordinary illustrations of it.
4. Distinguish between a broker and a factor, and explain what is meant by a *del credere* commission.

Public Examination—*cont.*

5. State generally the extent of the Liability of a Factor in respect of damages done to goods placed in his custody, and cite cases in support of your statement of the law upon this subject.

6. Where a Factor sells goods for an undisclosed Principal, in whose name may or must an action be brought for the price of such goods? What is the rule as to Set-off applicable in this case?

7. Distinguish between an *active*, a *nominal*, and a *dormant* partner, and state the test applicable in determining whether an individual is liable as a partner at suit of a third person in a Court of Law.

8. Explain what is meant by the *jus accrescendi*, and say whether it exists as between mercantile partners; mention a recent case upon this subject, and state the point decided in it.

9. A. is the Drawer, B. the Acceptor, C. the Payee, and D. the Indorsee of a Bill of Exchange made payable generally and dishonoured at maturity; with what evidence should D. be prepared in order to sustain an Action upon the Bill against A., and with what as against C.?

10. What is the maxim of law as to the ratification of a Contract? Does it apply also to a Tort? Give instances illustrating your answers.

11. Can an Action at Law be maintained by an individual Member of a Corporation against the Body Corporate? State fully the reasoning upon which your answer is founded.

12. State the three propositions laid down in the note to Marriot v. Hampton (2 Smith's L. Cases) relative respectively to money paid—1st, with knowledge of the facts; 2dly, under a mistake of facts; 3dly, under compulsion of law.

13. What is the foundation of the rule that "a Corporation must contract by specialty," and under what circumstances have exceptions to this rule been sanctioned? Cite cases explanatory of your answer to the latter part of this question.

14. Can two ordinary mercantile firms, having a partner in common, sue one another at law? State the reasons of the rule upon this subject.

15. What was the former and what is the present rule as to the Joinder of different Causes of Action in the same suit.

16. Give a definition of Larceny; and state under what circumstances the finder of lost property who appropriates it to his own use is guilty of Larceny. Can you mention any recent case upon this subject.

17. State the substance of the statutory provision (7 & 8 Geo. IV. c. 29. s. 53), as to obtaining money by false pretences.

18. At what period during the continuance of the tenancy may a good notice to quit be given in the case, first, of a yearly, secondly, of a monthly, and thirdly, of a weekly tenancy; there being no special agreement nor usage affecting the rights of the parties?

19. A. enters as tenant to B. of 100 acres of land at a fixed rent; it appears, however, that B. has previously demised 10 acres of the land in question to C. Can B. destrain upon A. for rent in arrear? Explain the reason of your answer.

20. Can a Watch left with a Watchmaker for repair—a Carriage standing at Livery—or goods sent to an Auction Mart for sale, under ordinary circumstances, be distrained for rent due from the Bailee? Upon what principle is the Law applicable in each of these cases founded?

21. Are the Chattels of a Lodger or Stranger, being upon the premises of a Lodging House Keeper, distrainable for rent due from the latter party?

22. How long does the Writ of Summons issued in pursuance of the Common Law Procedure Act continue in force? And what is the proper course to take when a defendant evades service of the Writ?

23. Explain the change effected by the Common Law Procedure Act as regards the consequences of a Misjoinder of Plaintiffs in an Action.

24. Explain what is meant by a "Special Endorsement" of the Writ of Summons, and what is the advantage to be derived from specially endorsing the writ.

25. State the proper mode of proceeding by Action against a British subject resident abroad.

26. Mention the leading rules laid down by Mr. Serjeant Stephen as applicable to the interpretation of Statutes.

Public Examination.

Public Examination.—Hilary Term, 1853.

Monday Afternoon, January 24th, 1853. *From Half-past One to Half-past Four.*

On the Law of Real Property, &c.

1. State the reasons that led to the passing of the Statute "*De donis conditionabilis*," and its effect upon the power of alienating Real estate? By what artifices was the force of Entails destroyed? and what are the practical alterations in that respect that have been introduced by 3 & 4 Will. 4. c. 74.?

2. What is meant by a Power operating under the Statute of Uses? Illustrate your answer by examples, and point out the difference between general and particular Powers of Appointment?

Public Examination—*cont.*

3. What Conveyances do and what do not operate by transmutation of possession? An estate in fee simple is conveyed to A., to the use of B., in trust for C., what estates do A. B. and C. respectively take when the conveyance is made? (1) By Lease and Release; (2) by Bargain and Sale inrolled.

4. Point out the distinction between an Estate in reversion and an Estate in Remainder, and also between a Vested and a Contingent Remainder. Enumerate the kinds of Contingent Remainders, and give examples of each kind.

5. For what purpose was the usual Limitation in Settlements to Trustees, to preserve Contingent Remainders, introduced? Is its insertion necessary at the present day in all different cases? If not, give the general rule and the exceptions.

6. State the rules according to which, at the present day, the Heir to an estate in Fee Simple is to be ascertained on the death of his ancestor, and point out the alterations in the Law of Descent effected by the 3 & 4 Will. 4. c. 106.

7. Distinguish between estates held in joint tenancy, tenancy in common, and coparcenary. An estate is conveyed to A., B., and C., as joint tenants in fee; A. conveys all his estate and interest to B., what is the quality of B.'s and C.'s estates respectively?

8. What is the origin of the mode of conveyance by Lease and Release, and what alterations have taken place in it since the passing of the Statute of Uses?

9. Distinguish between Dower and Jointure. To what extent has the widows right to dower been invaded by recent enactment?

10. An estate is conveyed to A. and his Heirs to the common uses to bar the Dower in favour of B., a purchaser. Set out the limitations in full, and state the effect of a subsequent appointment by B. to C. and his Heirs, to the use of D. in Fee, upon the Estates so conveyed to C. and D. respectively.

11. State the general purport and policy of the 9 Geo. 2. c. 36., and point out the restrictions thereby imposed upon the alienation of land for Charitable Purposes.

12. Lands belonging to a married woman in fee are conveyed to a purchaser, what is essential to complete the purchaser's title, in addition to the execution of the conveyance?

13. A testator gives real and personal estate to A., and if A. die without leaving issue, then to B. absolutely. What estates do A. and B. respectively take under such a gift, (1) where the will is dated previous, (2) where it is dated subsequent to the 1st of January 1838? A. dies leaving issue living at his death, what estates do the issue take in the property under the 29th section of the 1 Vict. c. 26.?

14. Distinguish between a Contingent Remainder and an Executory Devise. Point out the various modes by which Contingent Remainders might have been destroyed under the old law; and show how far their destructibility is affected by the eighth section of 8 & 9 Vict., c. 106.

15. What has been the effect of recent Legislation upon the power of aliening, either by Deed or Will, those future contingent interests in land which were formerly inalienable at the Common Law?

16. Define a Voluntary Conveyance or Settlement, and give Examples. A conveyance of land is made to a purchaser for valuable consideration, with notice of a prior voluntary Deed, how are the rights of the purchaser affected?

(1.) Where the conveyance is made by the *author* of the voluntary deed.

(2.) Where it is made by his *Heir* or *Devisee*. Cite authorities in support of your answer.

Note.—*Candidates for Honours or a Studentship will direct their attention to all the questions contained in this paper, but it is not* imperative *on Candidates for a Certificate to answer satisfactorily any other questions than the first ten.*

Public Examination.

Public Examination.—Hilary Term.

Tuesday Morning, January 25, 1853. *From Half-past Nine to Half-past Twelve.*

Jurisprudence and the Civil Law.

1. "Omne jus quo utimor, vel ad personas pertinet, vel ad res, vel ad actiones." Is this distribution complete? What is the relation of the Law of Persons to the Law of Things? Are there any portions of the Law which may be classed indifferently under either of these departments?

2. What is a Personal and what a Real Statute? State the principal tests given by the best Jurists for distinguishing between them, and say which of the criteria you consider the most satisfactory. In what consists the importance of the distinction between the classes of Statutes?

3. "Quod principi placuit, legis habet vigorem." "Sine scripto jus venit, quod usus approbavit." Explain the meaning of these maxims. In what sense and with what limitations can they be accepted as principles of General Jurisprudence?

4. Give a definition of the Law Natural. When such an expression is employed, what assumptions are made with reference to the essential character of Law?

Public Examination—*cont.*

5. Give a short account of the preliminary conditions which the Civil Law required for a Legal Marriage. In what sense is Marriage a Contract? Which of the essential features of a Contract does it exhibit, and in which is it wanting?

6. State the general rules for computing the degrees of Consanguinity. What are the modes of calculating proximity in blood, adopted respectively by the Civil and Canon Law? Which method does the Law of England follow?

7. Give a brief sketch of the Rights and Duties of the Patron relatively to the Freedman whom he had enfranchised. What historical importance attaches to this department of Roman Law?

Explain the meaning of the term "Latinitas."

8. Distinguish accurately between the offices of the Tutor and the Curator. In what respects are the fundamental principles upon which depend the Modern Law of Guardianship and the Modern Law of Minority distinct from those upon which the corresponding departments of the Roman Jurisprudence reposed?

9. Explain the rule of Roman law "Utilitatem pupillorum Prætor sequitur, non scripturam testamenti." On what grounds was this proposition defended, and how was it reconciled with the received principles upon which the Law of Testaments was administered?

10. Describe as briefly as possible the theory propounded by Montesquieu concerning the origin of Civil Procedure in Southern Europe. What views do you suppose that he is indirectly combating in the Twenty-eighth Book of the "Esprit des Lois?" To which of the opposing theories has more modern investigation lent support?

11. On what grounds does Montesquieu deny the authenticity of the Etablissements de St. Louis? Do you consider them sufficient? On the assumption that the Etablissements are authentic, in what respect is the theory of Montesquieu weakened?

12. Do you suppose that the system of *negative probation* was indigenous among the Tribes of Middle Germany, or that it is traceable to any provisions of the Roman Law? Give reasons for your answer, and state whether negative proofs survive in any part of any contemporary Code.

13. What were the respective Proprietary Rights in Roman Law of persons enjoying the *dominium directum* and the *dominium utile?* What are the principal modifications of Property sanctioned by Roman Law, which strike you as having exercised an influence on Feudal dependencies?

14. Explain the following expressions:—*Actio stricti juris, actio bonæ fidei, actio personalis, actio realis.* Analyze carefully the principle on which the distinction between Real and Personal Actions depend.

15. Enumerate the circumstances which, in the view adopted by English Tribunals, constitute a given person the subject of a given State. How far is the English doctrine identical with that which is generally received by the Comity of Nations, and how far is it consistent with the principles which are propounded by Bentham as grounds of the relation between Sovereign and Subject?

16. What is, *prima facie*, the Legal position in respect to Domicile, of (1) a Widow, (2) a Minor, (3) of a Married Man whose residence and place of business are separate, (4) of a person *in itinere*, (5) of an Ambassador, (6) of a Bastard?

17. What is the meaning and scope of the maxim, "Native domicile reverts easily?"

Public Examination.—Hilary Term, 1853.

Public Examination.

Tuesday Afternoon, January 25th. From Half-past One to Half-past Four.

1. Describe the Policy of Elizabeth towards her Parliaments, and mention any particular instance of her concessions to them.

2. What were the most remarkable State Trials during the Reign of James? how far were they in conformity to existing Laws, and what was most remarkable in their management?

3. Give an account of the public conduct of Charles the First from his Accession to the breaking out of the Civil War.

4. A Partnership was formed of five persons, one of whom died, and the other four partners continued in the Partnership, and afterwards became bankrupt; the creditors of the four surviving partners sought to have the debts of the five paid out of the assets of the deceased partner, so that the dividend of the estate of the four bankrupts might be thereby increased. What, under these circumstances, was the decision of the Court, and the reasons on which it was grounded?

5. A Testator gives by his will certain sums of money for the benefit of children, with respect to whom he has placed himself in *loco parentis*, and their issue; afterwards, on the marriage of the children, he makes Settlements in favour of them and their issue, of sums smaller in amount than those given by the Will, and dies without having altered his Will. What is the effect of the advancements upon the Legacies?

6. In what cases will the Court of Chancery entertain a suit for the specific performance of an agreement? Will it entertain a suit for specific performance where the relief sought is payment of a sum of money?

Public Examination—*cont.*

7. State shortly the facts in *Ashby v. White* (1 Smith's Lead. Cas., p. 105), the general principle deducible from that case, and the leading qualifications to which it is subject. Define the nature of a "legal injury," and illustrate the meaning of *damnum sine injuriâ.*

8. What is the true meaning and effect of crossing a Cheque with a Banker's name, or of simply crossing it "and Co."? What recent case is there upon this subject?

9. Distinguish between *legal* and moral *fraud.* Does the former invalidate a contract? State some of the leading decisions upon this subject.

10. The vesting of the absolute ownership and enjoyment of land cannot be suspended beyond a certain period. Upon what principle is this policy of the Law founded? Give the substance of the case by which the extreme limits of the period of suspension were defined.

11. What was the extent of the testamentary Power of Alienation previous to the passing of the 1 Vict. c. 26.? State generally the *practical* nature of the alterations introduced by that Statute.

12. One of the suggestions for the amendment of the Law of Mortmain is "that the unrestricted privilege already possessed by Testators of disposing of their pure personalty for Charitable purposes, should be extended to personalty savouring of the realty." What is your opinion of the policy of this suggestion? Illustrate your answer by cases.

13. Describe the nature of the Jurisdiction committed to the Roman Prætor, distinguishing between his ordinary and extraordinary powers. For what purposes was the Interdict originally introduced? What were the principal uses which it was ultimately made to serve?

By what provisions was the stability of the Prætorian Law secured?

14. In what sense does Bentham assert that "the *afflictive* power of the Sovereign is the limit of his rightful dominion?" What theory of the nature of Law is assumed in this proposition?

15. Give a brief sketch of the state of the authorities for and against the position that "an illegitimate person who, by the subsequent marriage of his parents, becomes legitimated as heir by the law of his domicile, ought to be deemed such as to the inheritance of land in all countries." Story, *Conflict of Laws*, p. 124.

Public Examination of the Students of the Inns of Court, held at Lincoln's Inn Hall, on the 22nd, 24th, and 25th days of January, 1853.

Public Examination.

The Council of Legal Education have awarded to

William Whittaker Barry, Esq., *Student of Lincoln's Inn*, a Studentship of Fifty Guineas Per Annum, to continue for a period of Three Years.

M. E. Grant Duff, Esq., *Student of the Inner Temple*, a Certificate of Honour as having passed the second best Examination.

W. O'Connor Morris, Esq., *Student of Lincoln's Inn*, and John Palmer, Esq., *Student of the Inner Temple*, Certificates that they have satisfactorily passed a Public Examination.

By Order of the Council,

(Signed) Richard Bethell,
Chairman.

Council Chamber, Lincoln's Inn,
29th January 1853.

Prospectus of the Lectures to be delivered during the ensuing Educational Term, by the several Readers appointed by the Inns of Court.

Constitutional Law and Legal History.

Prospectus of the Lectures to be delivered during the ensuing Educational Term by the several Readers appointed by the Inns of Court.—*Dated* 11*th April* 1853.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History, in the ensuing Educational Term, will comprise the following subjects:—

Reign of Anne—Struggle of Parties—Sacheverell's Trial—Speeches of Managers—Intrigues of Jacobites—Administration of Godolphin—Union of England and Scotland—Tory Administration—Intolerant Laws—Peace of Utrecht—Increase of Influence—Hanover Succession—Accession of George the First—Whig Administration—Principles of Ecclesiastical Government—Trial of Atterbury—Standing Army—Influence in Parliament from Places and Pensions—Establishment of Militia—History of Party Connexions—Administration of Sir Robert Walpole—Relations of England and France—Reign of George the Second.

The Reader also proposes (if the time will allow) to trace the progress and outlines of Jurisprudence in France down to the time of the Codes of Louis XIV.

In his Private Lecture the Reader will traverse the same ground, examining the same subjects in more detail. He will dwell particularly on the Course of Legislation, and the Proceedings in our Courts of Justice.

The Text Books and Books of Reference will be,

Somerville's History of Queen Anne.
Hallam's Constitutional History.
Millar on English Government and Constitution.
State Trials.
Statute Book.
Somers' Tracts.
State Tracts.
Coxe's Marlborough.
Coxe's Walpole.
Mably, Droit Public de l'Europe.
Wheaton's International Law.
Stephen's Blackstone, Third Edition.
Parliamentary History.
Annual Register.
Tindall's Continuation of Rapin.
Belsham's History.

The Reader on Constitutional Law and Legal History will deliver his Public Lectures at Lincoln's Inn Hall, on Wednesday in each week during the Educational Term, commencing at two p.m. The Reader will receive his Private Classes on Tuesday, Thursday, and Saturday Morning in each week, from half-past nine to half-past eleven o'clock, in the Bencher's Reading Room at Lincoln's Inn Hall.

Equity.

The Reader on Equity proposes to give, during the ensuing Educational Term, twelve Public Lectures on the Jurisdiction exercised, the assistance afforded, and the restraints imposed by the Court of Chancery, in cases which admit of Proceedings at Law.

First Lecture.

General Division of the Subject—Grounds on which the Jurisdiction depends in particular instances—Superiority of the Relief afforded in Equity—Superiority of the Procedure; the Legal remedy being in Contravention of some Equitable Principle.

The following Lectures will treat this subject under the heads of Agreement, Account, Partnership, Administration of Assets, Accident, Mistake, and Fraud.

In addition to the Public Lectures it is proposed that two Classes shall be formed, as during the preceding Terms, for the study of the Principles and Practice adopted by Courts of Equity: each Class to meet for one hour three times a week. The Junior Class will read portions of *Story's Commentaries on Equity Jurisprudence*, commencing with chapter VI.; *Smith's Manual of Equity Jurisprudence;* and *Mitford's Pleadings in Chancery*, commencing chapter II. sec. 2, part I. The Senior Class will read *Story's Commentaries*, commencing with chapter IV.; the 2nd vol. of *White and Tudor's Leading Cases; Mitford's Pleadings in Chancery*, commencing chapter II. sec. 2. part III.; and *Wigram's Points in the Law of Discovery*. Each Student will be expected, in the intervals between the meetings of the Class, to peruse portions of that and other works pointed out by the Reader, and to be prepared, at the ensuing meeting of the Class, to answer and discuss Questions arising out of the subjects of their Reading.

The Reader on Equity will deliver his Public Lectures at Lincoln's Inn Hall on Thursday in each week during the Educational Term, commencing at two o'clock p.m.

The Reader will receive his Private Classes on Monday, Wednesday, and Friday evenings in each week, from seven to nine o'clock, in the Bencher's Reading Room at Lincoln's Inn Hall.

Law of Real Property, &c.

The Reader on the Law of Real Property, &c. proposes to deliver, in the ensuing Educational Term, a course of Twelve Public Lectures on the following subjects:—

I. On Title by Non-Claim.
   1. As to Rights of Common, of Way, and of Light, 2 & 3 Will. IV. c. 71.
   2. As to Moduses, Exemption from Tithes, and Advowsons, 2 & 3 Will. IV. c. 100; 3 & 4 Will. IV. c. 27, s. 29–31.
   3. As to the Limitation of Actions and Suits relating to Real Property, 2 Henry VII. c. 24.; 32 Henry VIII. c. 2.; 21 Jac. I., c. 16.; 9 Geo. III. c. 16.; 3 & 4 Will. IV. c. 27.; 3 & 4 Will. IV. c. 42. s. 3.; 7 Will. IV. and 1 Vict. c. 28.

II. On Title under Tenants in Tail, and Alienation by Married Women, 3 & 4 Will. IV. c. 74.

III. On Dower and Jointure, 3 & 4 Will. IV. c. 105.

IV. On Title by Descent, 3 & 4 Will. IV. c. 106.

V. On the Merger of Satisfied Terms, 8 & 9 Vict. c. 112.

VI. On the 8 & 9 Vict. c. 106.

The Lectures to be delivered to the Private Classes will comprise the following subjects:—With the *Junior Class*, the elementary portion of the Learning of Powers will be discussed, in connexion with the Text of *Sugden on Powers*, and *Cruise's Digest*, tit. 32, chap. 13–19. With the *Senior Class*, the Text of *Fearne on Contingent Remainders and Executory Devises* will form the basis of the Lectures; and the latest decisions illustrating the principles there laid down will be examined and commented on.

The Public Lectures will be delivered at Gray's Inn Hall, on Friday in each week, at two p.m. (the first Lecture to be delivered on the 15th of April). The Private Classes will be held in the North Library of Gray's Inn, every Monday, Wednesday, and Friday morning, from a quarter to twelve to a quarter to two o'clock.

Prospectus, &c.—*cont.*

Jurisprudence and the Civil Law.

The Reader on Jurisprudence and the Civil Law proposes in the ensuing Educational Term to deliver a Course of Twelve Public Lectures on the following subjects:—

I. The Roman Law of Occupancy, and the Modern Law of Capture in War.

II. Prescriptions, Ancient and Modern.

III. The Roman Law of Testaments, and the Principles of Modern Testamentary Jurisprudence derived therefrom.

IV. The Roman Law of Legacies.

V. Obligations.

The Reader will also deliver a series of Lectures to his Private Classes on the Law of Contract, Delict, and Civil Process. The *Institutes of Justinian* will form the basis of the Lectures on Contract; and the *Institutes of Gaius* that of the Lectures on Civil Process. The modern authorities most frequently referred to will be *Warnkönig*, *Pothier*, and *Troplong*.

The Public Lectures will be delivered in the Hall of the Middle Temple on Tuesday in each week, at two p.m., the first Lecture to be delivered on the 19th April.

The Private Classes will attend at Chambers on the ground floor, No. 3, Garden Court, Temple, on Monday, Wednesday, and Friday mornings in each week, at half-past nine o'clock.

Common Law.

The Reader on Common Law proposes to deliver during the Educational Term, commencing on the 15th April 1853, a Course of Twelve Public Lectures, of which the first nine will be on the Law of Contracts, of Mercantile Persons and Instruments, and the three concluding Lectures will be on the Criminal Law, so far as it concerns offences against the Persons and Property of Individuals.

Lecture I. Definition of a Contract or Agreement—Different kinds of Contracts—Leading principles applicable generally to Contracts.

Lecture II. Consideration of Contract—Its Nature and Requisites—Of Void and Voidable Contracts.

Lecture III. Statute of Frauds—General view of its operation in connexion with the Law of Contracts—Effect of its 4th and 17th sections specially considered.

Lecture IV. Rules which apply to the Construction and Interpretation of Written Instruments—Operation of the Stamp Acts upon Agreements.

Lecture V. Of Guarantees—Bills of Exchange and Promissory Notes.

Lecture VI. Of the Relation of Principal and Agent, or Master and Servant, and the Duties and Liabilities which flow from it.

Lecture VII. Of the Law of Bailments,—especially of Contracts with Carriers and Railway Companies for the Conveyance of Passengers and Goods.

Lecture VIII. Partnership for Trading Purposes—How formed and dissolved—Its Effect as regards the Liabilities of its Members to Third Persons—Of Contracts with Corporations.

Lecture IX. Of Matters Pleadable by way of Defence in Actions on Contract—Payment,—Tender—Set Off—Effect of the Statute of Limitations.

Criminal Law.

Lecture X. The Indictment and Proceedings thereupon.

Lecture XI. Of Offences against the Person—particularly of the Distinctions between Murder, Manslaughter, and Justifiable or Excusable Homicide.

Lecture XII. Of Offences against the Property of Individuals—particularly of the Distinctions between Larceny, Embezzlement, and Obtaining Money by False Pretences.

The Reader on Common Law will use as Text Books, with his Private Class during the ensuing term, the following works:—On the Law of Contracts, *Chitty, Jun., on Contracts not under Seal* (4th edition); *Smith's Mercantile Law* (4th edition); *Story on Bailments* (5th edition); and *Smith's Leading Cases* (3rd edition). On the *Criminal Law*, *Archbold's Pleading and Evidence in Criminal Cases* (12th edition).

The Lectures on Common Law during the ensuing Term will be delivered, and the Private Classes held, in the Hall of the Inner Temple, as under:

The Public Lecture on Monday in each week, at two, p.m.; the first Lecture to be delivered on Monday, the 18th April.

The Private Class on Tuesday, Thursday, and Saturday in each week, from a quarter to twelve to a quarter to two o'clock.

By Order of the Council,

(Signed) W. P. Wood,
Chairman, *pro. tem.*

Council Chamber, Lincoln's Inn,
11*th April* 1853.

Public Examination.—Trinity Term, 1853.

Rules for the Public Examination of the Students, to be held on the twenty-third, twenty-fourth, and twenty-fifth days of May 1853. *Dated* 11*th April* 1853.

The Council of Legal Education have approved of the following Rules for the Public Examination of the Students.

The attention of the Students is requested to the following Rules of the Inns of Court:—

"As an inducement to Students to propose themselves for Examination, Studentships shall be founded of Fifty Guineas Per Annum each, to continue for a period of three years, and one such Studentship shall be conferred on the most distinguished Student at each Public Examination; and further, the Examiners shall select and certify the names of three other Students who shall have passed the next best Examinations, and the Inns of Court to which such Students belong may, if desired, dispense with any Terms, not exceeding two, that may remain to be kept by such Students previously to their being called to the Bar. Provided that the Examiners shall not be obliged to confer or grant any Studentship or Certificate unless they shall be of opinion that the Examination of the Students they select has been such as entitles them thereto.

"At every call to the Bar those Students who have passed a Public Examination, and either obtained a Studentship or a Certificate of Honour, shall take rank in seniority over all other Students who shall be called on the same day.

"No Student shall be eligible to be called to the Bar who shall not either have attended during one whole year the Lectures of two of the Readers, or have satisfactorily passed a Public Examination."

Rules for the Public Examination of Candidates for Honours, or Certificates entitling Students to be called to the Bar.

An Examination will be held in next Trinity Term, to which a Student of any of the Inns of Court who is desirous of becoming a Candidate for a Studentship or Honours, or of obtaining a Certificate of fitness for being called to the Bar, will be admissible.

Each Student proposing to submit himself for Examination will be required to enter his name at the Treasurer's Office of the Inn of Court to which he belongs, on or before Friday, the 20th day of May next, and he will further be required to state in writing whether his object in offering himself for Examination is to compete for a Studentship or other Honourable distinction, or whether he is merely desirous of obtaining a Certificate preliminary to a call to the Bar.

The Examination will commence on Monday the 23rd day of May next, and will be continued on the Tuesday and Wednesday following.

Each of the three days of Examination will be divided as under:—

From half-past Nine, a.m. to half-past Twelve.
From half-past One, p.m., to half-past Four.

The Examination will be partly Oral, and partly conducted by means of Printed Questions, to be delivered to the Students when assembled for Examination, and to be answered in Writing.

The Oral Examination and Printed Questions will be founded on the Books below mentioned; regard being had, however, to the particular object with a view to which the Student presents himself for Examination.

In determining the question whether a Student has passed the Examination in such a manner as to entitle him to be called to the Bar, the Examiners will principally have regard to the general knowledge of Law and Jurisprudence which he has displayed.

The Reader on Constitutional Law and Legal History will expect the Students to be acquainted with the following Books, which will form the ground of his Examination:—

Hallam's Constitutional History, last volume.
The Reign of William the Third, in Tindal or Belsham.
Millar on the English Constitution.
The Reign of Queen Anne, in Tindal or Belsham.
The Statute Book during the reigns of Charles the Second, William the Third, and Queen Anne.
The State Trials during the same period.
The Parliamentary History during the same time.
Mably, Droit Public de l'Europe.
The Fragment of Sir James Macintosh.
The first and fourth volumes of Blackstone's Commentaries.

Those who are Candidates only for Certificates will be expected to know the last volume of Hallam's Constitutional History, and to answer any general Questions on the History of England.

The Reader on Equity will examine in the following books:—

1. *Mitford on Pleadings in the Court of Chancery; Calvert on Parties to Suits in Equity, chaps.* 1 *and* 2; *Smith's Manual of Equity Jurisprudence; the Act for the Improvement of Equity Jurisprudence,* 15 *&* 16 *Vict. c.* 86.

Rules, &c.—*cont.*

2 *Sir James Wigram's Points in the Law of Discovery, "Defence by Plea;" Story's Commentaries on Equity Jurisprudence, vols* 1 *and* 2.*; the principal Cases in White and Tudor's Leading Cases, vols.* 1 *and* 2.

Candidates for Certificates of fitness to be called to the Bar will be expected to be well acquainted with the Books mentioned in the first of the above Classes.

Candidates for a Studentship or Honours will be examined in the Books mentioned in the two Classes.

The Reader on Jurisprudence and the Civil Law proposes to examine in the following Books and Subjects:—

1. Justinian—*Institutes*, book 2, tit. I.—IX.
2. Gaius—*Institute*, lib. II., sect. 1.—96.
3. Story—*Conflict of Laws*, chaps. IX. and X.
4. The *Jur. Pignoris.* The modern authorities consulted may be Warnkönig.—*Institut.*, lib. I., cap. 5, or Colquhoun—*Roman Civil Law*, book III., title 17.
5. The Right of Visitation and Search.

Candidates for distinction will be examined in all the foregoing Books and Subjects. Candidates for a Certificate will be examined in (1) and (3).

The Reader on the Law of Real Property proposes to examine in the following Books and Subjects:—

Class I.—*Williams on Real Property*, 1 *Steph. Com., book* 2*; and Butler's Notes to Co. Lit.*, 191 *a, sect.* 2, 5*;* 271 *b.*

Class II.—Trusts for Accumulation and the operation of 39 & 40 Geo. III. c. 98. Powers of Sale, and the Liability of Purchasers to see to the Application of their Purchase Money. The Statutory Rules of Construction laid down by the 1 Vict. c. 26.

Candidates for a Certificate merely will be examined exclusively in the Books comprised in Class I.

Candidates for a Studentship, or other honourable distinction, will be examined in the Books and Subjects comprised in Classes I. and II.

The Examination in Common Law, with a view to a Certificate to be called to the Bar, will embrace the following subjects:—

1st. The Ordinary Steps and Proceedings in an Action at Law.

2nd. The Elementary Principles of the Law of Contracts.

Candidates for the Studentship and for Honours will be examined not only on the above topics, but also in the following Books and Subjects:—

1st. The Nature and Requisites of Contracts (*Chitt., Jun., on Contracts not under Seal*, chaps. I. and IV., *Collins v. Blantern*, 1 *Smith*, L. C. 154, and *Mitchell v. Reynolds*, id. 171, with the Notes thereto).

2nd. The Law of Bailments (so far as treated of in *Chitt., Jun., on Contracts not under Seal*, pp. 408–433, and in the Note to *Coggs v. Bernard*, 1 *Smith*, L. C. 82).

3rd. The Rules of Evidence of Ordinary Application.

By Order of the Council,

W. P. Wood,
Chairman, *pro. tem.*

Council Chamber, Lincoln's Inn,
11*th April* 1853.

Public Examination.

Public Examination.—Trinity Term, 1853.

Monday Morning, May 23*rd. From Half-past Nine to Half-past Twelve.*

Questions on Constitutional Law and Legal History.

1. Give an account of the causes which led to the Revolution of 1688.
2. What effect did that event produce on the doctrines and language of the executive Government after that period, as compared with the principles insisted upon by the Stuarts?
3. What Prerogatives had the Crown parted with since the year 1660?
4. What security for freedom had been established since 1660.
5. In what Trial had the Right of Jurors been discussed? Give an account of the way in which the question was dealt with, and of the Judgment by which it was set at rest?
6. Give an account of the Trials of Cornish and Rosewell.
7. On what condition did William and Mary accept the Crown of England?
8. What was the great object of William's Policy?
9. What Treaties were concluded with France during his Reign?
10. What was the result of Admiral Herbert's Engagement with the French Fleet?
11. What efforts did James the Second make for the recovery of his Crown, and in what way were they defeated?
12. What great National Establishments were erected during the Reign of William the Third?

13. What change took place in the Constitution of Parliament, and how was it effected? Public Examination—*cont.*

14. Give an account of the Trial of Sir John Fenwick.

15. Give an account of the Characters of Danby, Halifax, and Somers.

16. What was the Character of the House of Commons by which Somers, Portland, and Halifax were impeached? To what discussions did that Impeachment give rise between the Two Houses?

17. Name any remarkable Petition presented to the House of Commons.

18. Did anything remarkable happen during the Reign of William the Third to any Speakers of the House of Commons?

19. What was the last Offence committed by Louis the Fourteenth against England before the War of the Succession?

20. What was William the Third's Policy towards Ireland?

21. Give a Character of William the Third, and cite the events of his life which you think illustrate it.

Public Examination.—Trinity Term, 1853.

Public Examination.

Monday Afternoon, May 23rd. From Half-past One to Half-past Four.

Equity.

1. In what respect do the rules of Law and Equity differ as regards contribution between Co-sureties?

2. Is imbecility (not sufficient to support a Commission of Lunacy) a ground for setting aside a Contract or Conveyance in any and what cases?

3. Will the specific performance of an agreement to repair be decreed in general? Are there any exceptions to the rule?

4. A. purchases an Estate with notice of an incumbrance, and then sells it to B., who has not notice; B. sells it to C. with notice. Is the Estate bound in the hands of C.? State the reasons on which the Rule of the Court is founded.

5. Explain what is meant by the abatement of a Suit. In what manner was it remedied previously to the New Orders? What is the present practice?

6. Give the history of the jurisdiction exercised in Lunacy, and explain the manner in which it is conferred.

7. In what manner did the assignment of a term of years to a Trustee operate as a protection against a Judgment signed subsequently to the creation of the term, in favour of a Purchaser without notice?

8. Distinguish accurately between a Bill for Relief and a Bill for Discovery. Of which nature is a Bill which prays for an injunction against Proceedings at Law until a Defendant has put in his answer? Explain the alteration made in the practice of the Court by the New Rules with respect to obtaining such an Injunction.

9. Explain what is meant by equitable Set-off. In what cases is it allowed?

10. State the rules by which the Court is guided with respect to a purchase made by a Trustee from his Cestuique trust.

11. In what cases will Equity grant relief upon a joint bond, as if it were a several as well as a joint obligation?

12. Explain what is meant by want of mutuality in a Contract. When is want of mutuality a sufficient answer to a suit for specific performance?

13. Explain the Proceeding by Claim. For what cases is it adapted?

14. A. mortgages an estate to B., and subsequently to C. B. files a bill of foreclosure; what is the proper form of decree?

15. A. dies, having appointed an Executor and a feme coverte Executrix; the husband of the Executrix invests money, part of the estate, in his own name, and that of the Executor. The husband dies; the Executor appropriates the money to his own use. Is the Estate of the husband liable?

16. In what cases will an implied Trust arise on a purchase in the name of another person? State the circumstances of the case of Dyer v. Dyer, and the grounds of decision.

17. On what grounds has the Court proceeded in determining whether Uses shall be considered Charitable or not? Give instances of Uses with regard to which the question has been held doubtful. By what Maxims has the Court been guided as to enforcing Charitable Uses?

18. Property is given to a Trustee upon Trust for a feme sole for her separate use in the event of marriage, but without power of anticipation; she marries without any settlement being made, and afterwards joins her husband in assigning the property to a purchaser for valuable consideration. Is the assignment valid to any and what extent? Mention the leading decision on this subject, and the doubt which prevailed previously.

Public Examination.

Public Examination.—Trinity Term, 1853.

Tuesday Morning, May 24th. From Half-past Nine to Half-past Twelve.

On the Common Law.

1. What do you understand by the terms "Consideration," "Privity," and "Mutuality," as used in connexion with Contracts, and how do you distinguish between a Void and Voidable Contract?

2. Mention the distinctive characteristics of a special as opposed to a simple Contract?

2. State shortly the facts in Collins v. Blantern, 1 Smith, L. Cas. 155, and the principle deducible from that case as applicable to illegal and fraudulent Contracts.

4. What is a "Concurrent" Writ of Summons, and under what circumstances may it be practically useful?

5. In what cases may a Writ of Summons be specially endorsed, and what are the advantages of so endorsing it?

6. What is meant by an Estoppel in pais? and what do you understand by the phrase, that "a chose in action is not assignable at Law"?

7. What is the liability of an Infant, first for necessaries; secondly, on a Bill of Exchange accepted by him for necessaries; thirdly, on a Bond with a penalty?

8. State shortly the Law as to the liability of a Lunatic upon a Contract made by him whilst non compos mentis. Can you mention any recent case in support of your view upon this subject?

9. Distinguish between a *patent* and a *latent* ambiguity. What is Lord Bacon's maxim with reference to the latter?

10. What change has been effected by the Common Law Procedure Act as regards the statement of promises in a Declaration founded upon Contract?

11. What is the difference between a Pledge or Pawn of Goods and a Lien, and in what respects does either of these differ from a Mortgage?

12. What is the ordinary time for pleading in Bar to an Action, the defendant being within the jurisdiction, and in Abatement?

13. What is the rule at Common Law as to admitting verbal Evidence to vary a written Contract? and how is this rule in certain cases affected by the Statute of Frauds?

14. Should the Consignor or Consignee in general sue the Carrier for loss of goods? What is the foundation of the rule upon the above subject?

15. Under what conditions may an agreement in restraint of trade be valid at Law? Can you mention any cases as to the divisibility of Covenants in restraint of trade?

16. Mention shortly in what respects the Carriers Act (1 W. 4. c. 68.) has affected the liability of Common Carriers?

17. Define what is meant by an "Agreement that is not to be performed within the space of one year from the making thereof," (29 Car. 2. c. 3. s. 4.)?

18. To what class of Contracts does the 17th Section of the Statute of Frauds apply, and what are its provisions?

19. What is the ordinary Writ of Execution, first, against the person, second, against the goods? and how long, if unexecuted, does the Writ remain in force?

20. How long may the doctrine of Merger, in certain cases, affect the form of Action? And what is meant by the expression *transit in rem judicatam?*

21. How have proceedings in arrest of judgment been affected by the Common Law Procedure Act?

22. What is meant by "res inter alios acta"? Give instances showing what is the rule of Evidence with reference to it?

23. State shortly what rights of action vested in an individual pass on Bankruptcy to his Assignees? In what cases may an uncertificated Bankrupt sue?

24. *Contra non volentem agere nulla currit præscriptio.* Explain and illustrate this rule.

Public Examination.

Public Examination.—Trinity Term, 1853.

Tuesday Afternoon, May 24th. From Half-past One to Half-past Four.

On the Law of Real Property, &c.

1. Is there any difference in the quantity of the following Estates? A lease to A. for 99 years; a lease to A. for 99 years, if B. should so long live; a lease to A. for three lives; a lease to A. for 99 years, if he should so long live.

2. What is the nature of the uncertainty which forms the leading distinction between a Vested and Contingent Remainder? Explain why a Vested Remainder can, and a Contingent Remainder cannot, be supported by a chattel interest in land?

3. Distinguish between Dower at the Common Law, Jointure, and Dower, as regulated by the 3 & 4 Will. 4. c. 105.? Public Examination—*cont.*

4. To what extent has the Power of Alienation by Tenants in Tail been enlarged by the 3 & 4 Will. 4. c. 74.?

5. What Conveyances do, what do not, operate by transmutation of possession? Give a general sketch of their history, with reference to their peculiar properties, and to the alterations that have from time to time been made in their frame and effect.

6. Define the office of "Protector to a Settlement"? What effect would the giving or withholding his consent have upon the Estate acquired by a Tenant in Tail under a disentailing Deed?

7. An Estate is conveyed to such uses as B. shall appoint, and in default of appointment to the use of C. in fee; B. appoints to A. for life, with remainder to A.'s first and other sons in tail; what difference does the appointment make in the Estate which C. takes in the land?

8. One possessed of a term of years borrows money upon the security of the term and mortgages it by the way of under-lease; in what cases and for what reason is this mode of proceeding preferable to an assignment?

9. State the rule in Shelley's Case: does it apply with equal force (1) where a man by marriage articles agrees to settle his estate upon himself for life, with remainder to the heirs of his body; and (2) where similar limitations are contained in a will?

10. Point out the principal alterations introduced into the Law of Descent by 3 & 4 Will. 4. c. 106. A purchaser of an Estate in fee simple dies intestate, leaving two daughters; one daughter dies leaving a son, what portion of the whole Estate is the son entitled to?

11. When a condition is annexed to a grant of an Estate in fee simple, what is the result of a breach of the condition, (1) where the condition is precedent, (2) where it is subsequent?

12. Point out the difference between General and Particular Powers of Appointment? Does a general devise at the present day amount to an execution of both kinds of powers?

13. Within what period must an Estate vest, when limited by way of Future Use or Executory Devise, so that the gift may have Legal validity? What was the policy by which the Courts were guided in establishing the restriction?

14. How is an Estate Tail converted into a base fee, and what is the effect of the conversion, when the Estate Tail, and the immediate reversion in fee expectant thereupon, are vested in the same person?

15. State succinctly the progress of the Law with respect to the liability of fee-simple Estates to the debts of a deceased owner, who has not by his Will charged the property with or devised it subject to the payment of his debts?

16. Give a short statement of the Case which occasioned the passing of the 39 & 40 Geo. 3. c. 98., and also a summary of the provisions contained in that Statute. Does the Act establish to any extent the validity of a Testamentary Trust for accumulation, which is otherwise void as transgressing the Rule against Perpetuities? Give a reason for your answer.

17. When Trustees are going to sell in the execution of their Trust, but have no express power to give receipts, in what cases have the Courts considered that there is, from the nature of the Trust, such an indication of an *implied* intention to give the power, as will exempt the purchaser from seeing to theapplication of his purchase money?

Public Examination.—Trinity Term, 1853.

Wednesday Morning, May 25th. From Half-past Nine to Half-past Twelve. Public Examination.

Jurisprudence and the Civil Law.

1. Analyze carefully the signification attached by the Roman Lawyers to the words Dominium and Obligatio. In what consists the scientific importance of the distinction between them?

When and under what circumstances did the expressions *jus in re* and *jus ad rem* come into use? To what objection are they open?

2. Through what changes of meaning has the term "Obligation" passed?

Define Eminent Domain? What sort of property in the National Territory are Sovereign States deemed by each other to enjoy?

3. Enumerate the objects comprised in the older Roman Law under the head of Res Mancipi. Was the department of Res Nec Mancipi co-extensive with the entire residue of the subjects of Property? Are there any reasons for supposing that a distinction analogous to that between Res Mancipi and Res Nec Mancipi is universally characteristic of Law in its infancy?

What was the *in jure cessio*, and for what purposes was it resorted to?

4. In the Roman Law of Civil Process, as constituted previously to the Reforms of Justinian, what class of remedies was allotted exclusively to the Dominus? In what consisted their superiority to the analogous remedies provided for the possessor?

Public Examination—*cont.*

How was the Roman Law enabled to dispense with the fiction known in English Jurisprudence as "Special Property"?

5. To what extent does the doctrine that the Sea and the Seashore (*mare et per hoc litora maris*) survive in the Public Law of modern times?

When a navigable river forms the boundary of two or more conterminous States, w hatis the doctrine of the best modern Publicists as to the right of navigation?

6. What was implied in Roman Law by the expression "*Natural* Modes of acquiring Property"? Through what range of ideas came Tradition to be ranked among them?

7. Define Specification, Commixtion, and Confusion, and give the rules of Roman Law for determining the question of Property under the circumstances supposed in these processes.

What rules are followed by the Law of England in the case of a Specification?

8. Give a definition of Occupancy. Is the definition of the Roman Law at all modified by Bracton? To what extent has the principle of occupancy been interfered with by the successive English Game Laws?

9. "Occupatio rei nullius pro acquirendi dominii causâ haberi potest, *singulorum tantum dominio in universum admisso.*"—Warnkönig, *Doctrina Juris Philosophica.* Give reasons in support of this opinion. How does it affect the popular theory of the part played by occupancy in the origination of individual property?

10. Give a brief analysis of the course of reasoning in virtue of which enemy's goods came to be considered subjects of occupancy. In what is it inconsistent with the maturer theory of the Jus Gentium? How far can private property on land be captured under the Modern Law of War? How far private debts and obligations contracted on the faith of the State?

11. Under what circumstances was the *adprehensio* of the immoveable property of an enemy deemed to be completed in Roman Law, so as to divest the rights of the original owner? At what moment do the rights of the owner of a captured vessel pass to the captor according to the Modern Law of War?

12. Describe the origin and development of the fiction of Postliminium. How many Res Postliminii are recognized in Modern Public Law?

In what manner is the desire of neutralizing the operation of Postliminy known to have effected the Acts of the Congress of Vienna?

13. Define the Right of Search. Why is it an inevitable consequence of the received Theory of Warfare? What rules has it been proposed to engraft on the Law of War, with the view of rendering this right unnecessary?

14. How far was the Right of Search trenched upon in the Manifesto issued by Catherine II. of Russia in 1780? By what States were the principles of the Russian Declaration adopted; and to what extent does their assent bind them at the present moment?

15. Define Prescription, considered as a term of General Jurisprudence. Is any true Prescription recognized by English Law?

16. Enumerate and explain the four conditions required for the completion of the shorter Prescription under the reformed Roman Law. Distinguish the older form of Usucapion from the *Præscriptio longi temporis of the Prætor?* What was the chief beneficial use which you supposed to have been served by *Usucapion* at the Era of Gaius?

17. "Nemo sibi ipse causam possessionis mutare potest." "On ne peut pas prescrire contre son titre, en ce sens qui l'on ne peut point se changer à soi-meme la cause et le principe de sa possession." (Code Napoleon, Art. 2,240.) Explain carefully the import of these maxims. Under what circumstances could a derivative, dependent, or permissive Possession become Adverse in the view of Roman Law?

18. What distinct meanings do you conceive to be conveyed in the ordinary usage of the word possession? What are the significations of the term discriminated by Savigny?

Explain the meaning and scope of Savigny's dictum, "All property is founded on Adverse Possession ripened by Prescription."

19. Describe the Legal question which formed the subject of Cicero's argument in the Oration Pro Cæcinâ. Has the difficulty to which Cicero addressed himself been expressly provided against in any modern Code?

20. Define a Servitude? Into what subdivisions are Servitudes distributed by Roman Law? Is it possible to accept the same distribution for English Jurisprudence?

21. What considerations are urged by the Jurists who have embarked in the controversy whether, in the essential classification of Jurisprudence, Servitudes should be ranked with Dominion or with Obligations? Which side is taken by Pothier, which by Troplong, which by Austin?

22. Describe the course of reasoning followed by those Jurists who contend that assignments under the Bankrupt or Insolvent Laws ought to be of universal operation to transfer moveable property, in whatever country it may be locally situated? To what extent is there a conflict of doctrine between the English and American Courts on this subject?

23. Enumerate the cases in which the *jus pignoris* arose through obligations not strictly created by the Contract of Pledge? When the *jus pignoris* attached under the circumstances just indicated, in what consisted the value of the rights which it conferred? How is its place supplied in English Law?

Public Examination.—Trinity Term, 1853.

Public Examination.

Wednesday Afternoon, May 25th. From Half-past One to Half-past Four.

General Paper.

1. Give an account of the parties Whig and Tory from their beginning to the Peace of Utrecht.

2. Give an account of the progress of Toleration from the Accession of Charles II. to the death of Anne.

3. Give an account of the Law of Treason and its changes during the same period.

4. What is meant by an answer in support of a plea? When is it necessary that a plea should be so accompanied? And why is such an answer required? Must it be sufficient in the ordinary acceptation of the word?

5. What are the objects attained by the Statutes now in force for the registration of Title Deeds? In what respect did the Law of France, as to the registrations of *Substitutions*, differ from the English law regarding the registration of Deeds?

6. Explain the mode in which the Equitable jurisdiction of the Court of Chancery has been established; and state the principal arguments which have been adduced in favour of and against its union with the jurisdiction of the Common Law Tribunals.

7. "A consideration past and executed will support such a promise only as the Law would imply." Explain fully the meaning of this proposition, and illustrate it by decided cases.

8. Under what circumstances are entries made by deceased persons admissible in Evidence? To what rule does their admissibility offer an exception, and upon what grounds has it been established?

9. What is it, in your opinion, which renders binding a Contract or Agreement not expressly made so by the Statute Law?

10. The twenty-ninth section of 1 Vict. c. 26. has assimilated the rules of construction applicable to testamentary gifts of Real and Personal Estate, where there is a gift over introduced by a clause importing an indefinite failure of issue of the first taker; show how this has been effected. Land is devised (subsequent to the passing of the Act) to A. for life, and in default of issue to B. in fee; what estates do A. and B. respectively take?

11. Give your opinion upon the following case:—Real Estate is devised to the use of A. and his heirs upon trust to pay debts and legacies, and, subject thereto, in trust for B. in fee. A. conveys the Legal Estate in the premises to B., subject to the debts and Legacies. B., upon his marriage, settles the property in the ordinary manner, giving the Trustees of the Settlement a power of Sale, with the usual receipt clause, and directs the proceeds to be invested in land, and settled in accordance with the uses of the Settlement. Is a purchaser from the Trustees bound to see that the Testators debts and Legacies have been paid? Cite authorities.

12. A valid executory devise is made of land, but the event upon which the future gift is to take effect does not happen for more than 21 years after the Testator's death; there is no gift of the intermediate rents and profits, nor any express direction to accumulate. Does the Thellusson Act apply so as to negative the title of the devisee to the accumulations that have accrued subsequent to the expiration of 21 years, and before the happening of the event specified?

13. Of what nature was the theoretical distinction between Prædia Italica and Prædia Provincialia? How did it practically affect the Roman Law of Property during the middle period of its history?

14. What criterion seems to have been tacitly adopted by the Roman Jurisconsults for distinguishing *Res Communis* from *Res Singulorum*? What are the tests proposed for the like purpose by Grotius, Bentham, Whewell?

15. What conclusions have been respectively arrived at by Cujacius, Huberus, and Boullenois, with reference to the operation of a will, executed with the formalities demanded by the *lex domicili* of the Testator, on immoveable property situated in a country whose Laws prescribe testamentary solemnities of a different description? State whether you consider the views of these Jurists to be reconcileable, and compare them with the doctrines of the English Law.

16. Give a brief sketch of the order in which the claims of pignoratitian creditors were marshalled. To what extent was the *tacking* of incumbrances permitted in Roman Law?

17. In the case of an ordinary pledge, on what condition was the creditor allowed to proceed to the *distractio pignoris*?

Public Examination of the Students of the Inns of Court, held at Lincoln's Inn Hall, on the 23d, 24th, and 25th Days of May 1853.

Public Examination of Students.

The Council of Legal Education have awarded to:—

M. E. Grant Duff, Esq., *Student of the Inner Temple*, a Studentship of Fifty Guineas per Annum, to continue for a period of Three Years.

Public Examination—*cont.*

William Langford, Esq., *Student of Gray's Inn*, a Certificate of Honour, as having passed the second best Examination.

William Fry Buchanan, Esq., *Student of Lincoln's Inn;* Hubert Lewis, Esq., *Student of the Middle Temple*, and Edward Irvine Howard, Esq., *Student of the Middle Temple*, Certificates that they have satisfactorily passed a Public Examination.

By Order of the Council,

EDWARD RYAN,
Chairman *pro. tem.*

Council Chamber, Lincoln's Inn,
6th June 1853.

PUBLIC EXAMINATION.—Michaelmas Term, 1853.

Rules for the Public Examination of the Students to be held on the 7th, 8th, and 9th days of November 1853. *Dated 27th July* 1853.

The Council of Legal Education have approved of the following Rules for the Public Examination of the Students.

The attention of the Students is requested to the following Rules of the Inns of Court:—

"As an inducement to Students to propose themselves for Examination, Studentships shall be founded of Fifty Guineas per annum each, to continue for a period of Three Years, and one such Studentship shall be conferred on the most distinguished Student at each Public Examination; and further, the Examiners shall select and certify the names of three other Students who shall have passed the next best Examination, and the Inns of Court to which such Students belong may, if desired, dispense with any Terms, not exceeding two, that may remain to be kept by such Students previously to their being called to the Bar. Provided that the Examiners shall not be obliged to confer or grant any Studentship or Certificate, unless they shall be of opinion that the Examinations of the Students they select has been such as entitles them thereto."

"At every call to the Bar, those Students who have passed a Public Examination, and either obtained a Studentship, or a Certificate of Honour, shall take rank in seniority over all other Students who shall be called on the same day."

"No Student shall be eligible to be called to the Bar who shall not either have attended during one whole year the Lectures of two of the Readers, or have satisfactorily passed a Public Examination."

RULES for the Public Examination of Candidates for Honours, or Certificates entitling Students to be called to the Bar.

An Examination will be held in next Michaelmas Term, to which a Student of any of the Inns of Court, who is desirous of becoming a Candidate for a Studentship or Honours, or of obtaining a Certificate of fitness for being called to the Bar, will be admissible.

Each Student proposing to submit himself for Examination will be required to enter his name at the Treasurer's Office of the Inn of Court to which he belongs, on or before Monday the 31st day of October next, and he will further be required to state in writing, whether his object in offering himself for Examination is to compete for a Studentship or other Honourable distinction, or whether he is merely desirous of obtaining a Certificate preliminary to a call to the Bar.

The Examination will commence on Monday the 7th day of November next, and will be continued on the Tuesday and Wednesday following.

It will take place in the Bencher's Reading Room, of Lincoln's Inn, and the doors will be closed ten minutes after the time appointed for the commencement of the Examination.

The Examination for Printed Questions will be conducted in the following order:—

Monday Morning, the 7th November, at half-past Nine, on Constitutional Law and Legal History; in the *Afternoon*, at half-past One, on Equity.

Tuesday Morning, the 8th November, at half-past Nine, on Common Law; in the *Afternoon*, at half-past One, on the Law of Real Property, &c.

Wednesday Morning, the 9th November, at half-past Nine, on Jurisprudence and the Civil Law; in the *Afternoon*, at half-past One, a Paper will be given to the Students including Questions bearing on all the foregoing subjects of Examination.

The Oral Examination will be conducted in the same order, during the same hours, and on the same subjects, as those already marked out for the Examination by Printed Questions, except that on *Wednesday Afternoon* there will be no Oral Examination.

The Oral Examination of each Student will be conducted apart from the other Students, and the character of that Examination will vary according as the Student is a Candidate for Honours or a Studentship, or desires simply to obtain a Certificate.

The Oral Examination, and Printed Questions, will be founded on the Books below mentioned; regard being had, however, to the particular object with a view to which the Student presents himself for Examination.

In determining the question whether a Student has passed the Examination in such a manner as to entitle him to be called to the Bar, the Examiners will principally have regard to the general knowledge of Law and Jurisprudence which he has displayed.

A Student may present himself at any number of Examinations, until he shall have obtained a Certificate.

Rules, &c.—*cont.*

Any Student who shall have obtained a Certificate, may present himself a second time for Examination as a Candidate for a Studentship, but only at one of the three Examinations immediately succeeding that at which he shall have obtained such Certificate; provided, that if any Student so presenting himself shall not succeed in obtaining the Studentship, his name shall not appear in the List.

Students who have kept more than Ten Terms shall not be admitted to an Examination.

The Reader on Constitutional Law and Legal History will expect all Students to answer any general questions relating to the History of England, and to be well acquainted with the Reigns of Henry VII., Henry VIII., Elizabeth, James I., and Charles I.

The Candidates for distinction will be expected to know the Outline of the History of the Canon Law, and its effects upon the Institutions of this Country; to give an account of the Changes in the times of Henry VIII., and the course of Ecclesiastical Policy from that time to the breaking out of the Civil War; as well as to answer questions belonging to Constitutional History, and the State Trials, from the earliest times to the Revolution.

The Books for the ordinary Examination will be *Hallam*, *Rapin*, and *Blackstone*.

Those for the Candidates for distinction will be *Hallam*, *Rapin*, *Reeves' History of the English Law*, *Sullivan's Lectures*, *Fleury – Droit Ecclesiastique*, or any other History of the Canon Law, *Burnet's History of the Reformation*, *Butler's Notes to Coke—Littleton*, *Blackstone*, and *the State Trials*.

The Reader on Equity will examine in the following Books :—

1. *Mitford on Pleadings in the Court of Chancery; Calvert on Parties to Suits in Equity, chaps.* 1 *and* 2.; *Smith's Manual of Equity Jurisprudence; the Act for the Improvement of Equity Jurisdiction*, 15 & 16 *Vict. c.* 86.
2. *Spence on the Equitable Jurisdiction of the Court of Chancery, vol.* 1, *part* 2, *book* 1; *Story's Commentaries on Equity Jurisprudence, vols.* 1 *and* 2; the principal Cases in *White and Tudor's Leading Cases, vols.* 1 *and* 2; *Sir James Wigram's Points in the Law of Discovery; Introductory Observations;* and "*First Proposition.*"

Candidates for Certificates of fitness to be called to the Bar will be expected to be well acquainted with the Books mentioned in the first of the above Classes.

Candidates for a Studentship or Honours will be examined in the Books mentioned in the two Classes.

The Reader on the Law of Real Property proposes to examine in the following Books and Subjects :—

1. Williams—*Real Property.*
2. Stephen—*Commentaries*, vol. 1, book 2.
3. The Learning of Powers—*Sugden on Powers*, chap. 1, sec. 1 and 4, chaps. 2 and 4; and *Cru. Dig.*, tit. 32, chaps. 13, 14, 16, 17, 19.
4. *Title by Non-Claim*, 2 & 3 Will. IV., cap. 71; 3 & 4 Will. IV. cap. 27.
5. *The Statute of Wills*, 1 Vict. cap. 26, sec. 24, 29–33.
6. *The Assignment of Satisfied Terms*, 8 & 9 Vict. cap. 112.

Candidates for a Studentship, or other honorary distinction, will be examined in all the foregoing Books and Subjects. Candidates for a Certificate merely will be examined in (1) (2) and (3.)

The Reader on Jurisprudence and the Civil Law proposes to examine in the following Books and Subjects :—

1. The Roman Law of Testaments, Legacies, and Fidei-commissa; of Real and Consensual Contracts. The modern authorities referred to may be Mühlenbruch—*Doctrina Pandectarum*, ed. 4, vol. 2, pp. 322, et seq.; vol. 3, pp. 190, et seq.; Puchta—*Pandeckten*, pp. 322, et seq., pp. 616, et seq., or Warnkönig—*Commentarii Juris Romani Privati*, lib. 3, pars post., cap. 1, et seq., lib. 5, cap. 1, et seq.
2. The Roman Law of Civil Process at the Era of Gaius: Gaius—*Comment.*, lib. 4. The modern treatises consulted may be Tigerström—*Die Innere Geschichte des Römischen Rechts*, pp. 86, et seq.; or J. G. Phillimore—*Introduction to the Study of Roman Law*, pp. 16, et seq.
3. Mühlenbruch—*Doctrina Pandectarum Pars Generalis*, lib. 1, vol. 1, pp. 83–166.
4. Warnkönig, *Doctrina Juris Philosophica*, cap. 8, 9, 10.
5. Ortolan—*Generalisation du Droit Romain*, part 1, tit. 3; part 2, tit. 1 et 2 (prefixed to M. Ortolan's "Explication Historique des Institutes," ed. 5).
6. Fœlix—*Droit International Privé*, pp. 531, et seq.; "Du Droit Criminal International," et "De l'Extradition."

Candidates for distinction will be examined in all the foregoing Books and Subjects. Candidates for a Certificate will be examined in (5) and (6), and also in (1), so far as the subjects here indicated are treated of in the Institutes of Justinian.

The Reader on Common Law proposes to examine in the following Books and Subjects :—

Class I.—1st. The ordinary Proceedings in an Action at Law. 2nd. The Elements of the Law of Contracts. 3rd. Wrongs Remediable in Case and Trespass, *Selw.*, *N. P.*, chap. 12 and chap. 39, sec. I. and II.

Rules, &c.—*cont.*

Class II.—1st. The New Rules of Pleading, *Trin. Term*, 1853. 2nd. *Story on Agency*, 4th ed., chaps. 3 and 17. 3rd. *Lord Campbell's Acts*, edited by Greaves.

Candidates for Certificates of fitness to be called to the Bar will be expected to be conversant with the subjects mentioned in the first of the above Classes. Candidates for the Studentship or Honours will have questions proposed to them falling within both of the above Classes.

By Order of the Council,

(Signed) Richd. Bethell,
Chairman.

Council Chamber, Lincoln's Inn,
July 27th, 1853.

Prospectus of the Lectures to be delivered during the ensuing Educational Term, by the several Readers appointed by the Inns of Court. Dated 22*nd Oct.*, 1853.

Prospectus of the Lectures to be delivered during the ensuing Educational Term, by the several Readers appointed by the Inns of Court.

Constitutional Law and Legal History.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History during Michaelmas Term, 1853, will embrace the following subjects:—

The Influence of the Canon and Civil Law on our Institutions and Courts of Justice—The Genius of the Feudal Law, and its Character in this Country and in France—The Changes in the Tenure of the Landed Property in England and before the Accession of the House of Tudor—The Progress of Jurisprudence in Europe—The Changes in the Constitution during the Tudor Dynasty—The Conduct of Parliament, and the Character of the Proceedings in the Courts of Justice, from the Accession of James the First to the breaking out of the Civil War.

The Text Books and Books of Reference will be—

Montesquieu's Esprit des Lois, liv. 30,
Canciani, Leges Barbarorum,
Héricourt, Loix Ecclesiastiques,
Savigny, Geschichte des Römischen Rechts,
Matthew Paris,
Reeve's History of the English Law,
Fleury's Droit Ecclesiastique,
Corpus Juris Canonici,
Rapin's History of England,
State Trials,
Clarendon's History,
Brodie's Constitutional History, and Millar on the English Government and Constitution,
Statute Book,
Blackstone's Commentaries,
Littleton's Services,
Butler's Notes to Coke on Littleton,
Hallam's Constitutional History,
Sugden's Preface to Gilbert on Uses and Trusts,
Sullivan's Lectures,
Eichhorn, Deutsche Staats-und Rechtsgeschichte,
Muratori, Antich. Ital.

In his Private Lectures the Reader will follow the same course, dwelling chiefly on our Domestic History and the Progress of Constitutional Principle and Legal Knowledge, as indicated by the Statute Book, and the Proceedings of our Courts of Justice.

The Reader on Constitutional Law and Legal History will deliver his Public Lectures at Lincoln's Inn Hall, on Wednesday in each week during the Educational Term, commencing at Two p.m. The Reader will receive his Private Classes on Tuesday, Thursday, and Saturday morning in each week, from half-past Nine to half-past Eleven o'clock, in the Benchers' Reading Room at Lincoln's Inn Hall.

Equity.

The Reader on Equity proposes to give, during the ensuing Educational Term, Six Public Lectures on the History of the Court of Chancery; its Procedure, and Relation to the Courts of Common Law.

First Lecture.

Judicial System of the Anglo-Saxons—Important Alterations effected on the Norman Conquest—The Aula Regia—The System of Writs—The Cancellarius—Establishment of the Superior Common Law Courts—The Chancellor of the Exchequer—Influence of the Civil Law—The Court of Parliament—Authority of the Chancellor as sole Judge in Equity established.

Second Lecture.

Principles on which the Equitable Jurisdiction was established—Their early Recognition—Reference to Conscience and the Rules of the Casuists—The Clerical Chancellors—History of the Court since the Reformation—Subjects of Equitable Jurisprudence.

Third Lecture.

The Great Seal of England—Its Custody—The Privy Seal—Signet—and Sign-Manual.—The Court of Requests—The Star Chamber—Privy Council—Common Law side of the Court of Chancery—Jurisdiction of the Chancellor over Lunatics and Infants—Appeal from the Chancellor to the House of Lords.

Fourth Lecture.

Procedure in Chancery—Suit commenced by Writ of Scire Facias—By Writ of Subpœnâ—English Bill—Process to compel Appearance—Recent Alterations in the Process—Defence by Demurrer—By Plea.

Fifth Lecture.

Relation of Pleadings in Equity to Pleadings at Common Law—Interrogatories—Practice of Compelling a Defendant to answer on Oath—How far sanctioned by the Civil Law—Setting down a Cause on Bill and Answer—Mode of taking Evidence in Chancery—The Hearing—Adjournment to Chambers—Office of Master in Chancery—Its Abolition.

Sixth Lecture.

Nature of the Relief afforded in Chancery—Judgments at Common Law—How far the Court of Chancery acts *in rem*—Specific Performance of an Agreement—Injunction—Powers of the Court under Statutes.

In addition to the Public Lectures it is proposed that two Classes shall be formed, as during the preceding Terms, for the study of the Principles and Practice adopted by the Courts of Equity; each Class to meet for one hour three times a week. The Junior Class will read Smith's Manual of Equity Jurisprudence, and Mitford's Pleadings in Chancery. The Senior Class will read Story's Commentaries on Equity Jurisprudence; the second volume of White and Tudor's Leading Cases, commencing with Howe v. Earl of Dartmouth; Mitford's Pleadings in Chancery; and Wigram's Points in the Law of Discovery. Each Student will be expected, in the intervals between the meeting of the Class, to peruse portions of these and other Works pointed out by the Reader; and to be prepared, at the ensuing meeting of the Class, to answer and discuss questions arising out of the subjects of their reading.

The Reader on Equity will deliver his Public Lectures at Lincoln's Inn Hall, on Thursday in each week during the Educational Term, commencing at two o'clock, p.m. The Reader will receive his Private Classes on Monday, Wednesday, and Friday evenings in each week, from Seven to Nine o'clock, in the Benchers' Reading Room at Lincoln's Inn Hall.

Law of Real Property, &c.

The Reader on the Law of Real Property, &c. proposes to deliver in the ensuing Educational Term a course of Six Public Lectures on the power of Testamentary Disposition, and the Construction of Wills.

I. Introduction. General View of the Extent of the Testamentary Power with reference to Real and Personal Property, previous to the passing of the 1 Vict. c. 26.

II. 1 Vict. c. 26. The Property which may be disposed of by Will, sect. 3. The Capacity of Testators, sect. 7–8, 11–12. The Execution and Attestation of Wills, sect. 9–10, 13–17.

III. On the Revocation and Revival of Wills, sect. 18–23.

IV. On the Construction of Wills:—

1. The Operation of Residuary and General Devises, sect. 24–28.
2. The Construction of Particular Words, sect. 29.
3. The Estate taken by Trustees under a Devise, sect. 30, 31.
4. Lapse, sect. 32, 33.

The Lectures to be delivered to the Private Classes will comprise the following subjects:—With the *Senior Class* the Text of Sugden on Powers will form the basis of the Lectures; and the latest decisions, illustrating the principles there laid down, will be examined and commented upon. With the *Junior Class*, the effect of recent Legislation upon the practice of Conveyancing, with reference to the framing of Purchase and Mortgage Deeds, will be discussed.

The Public Lectures will be delivered at Gray's Inn Hall on Friday in each week, at Two p.m. (the first Lecture to be delivered on the 4th of November). The Private Classes will be held in the North Library of Gray's Inn, every Monday, Wednesday, and Friday Morning, from a Quarter to Twelve to a Quarter to Two o'clock.

Prospectus, &c.—*cont.*

Jurisprudence and the Civil Law.

The Reader on Jurisprudence and the Civil Law will deliver in the course of the ensuing Educational Term Six Public Lectures on the following subjects:—

On General and Scientific Jurisprudence—On some of the Primary Technical Terms of Legal Science—On the Relation of Law to Moral Philosophy—On the Jus Gentium of the Roman Jurists, and on some Modern Theories of Natural Law—On the Sources of the Roman Civil Law and the Composition of the Corpus Juris—On the Relation of the Roman Civil Law to General Jurisprudence—On the Order and Connexion of the Departments of Law, and on the Systems of Classification adopted by Certain Modern Jurists.

With his Private Classes, the Reader will proceed regularly through the principal heads of Roman Law, following the Order of topics observed in the Institutional Treatise of Gaius. The modern Commentaries principally employed will be the *Institutiones* and *Commentarii Juris Romani Privati* of Warnkönig, the *Pandektan* of Puchta, and the *Institutes Nouvellement Expliquées* of Ducaurroy.

The following Works will also be incidentally referred to, and portions of them recommended for perusal:—Dumont's Bentham, Austin's "Province of Jurisprudence determined," the *Esprit des Lois*, the *Droit Civil* of Toullier, the *Doctrina Juris Philosophica* of Warnkönig, the *Histoire du Droit* of Herminier, the *Innere Geschichte des Romischen Rechts* and the *Aeussere Geschichte des Romischen Rechts* of Tigerström, the *Explication Historique des Instituts* of Ortolan, Wheaton's "Elements of International Law," the *Droit International Privé* of Fœlix, and Story's "Conflict of Laws."

The Public Lectures will be delivered in the Hall of the Middle Temple, on Tuesday in each week, at 2 p.m., (the first Lecture of the Course on Tuesday, November 1st.)

The Private Classes will assemble at the Class Room in Garden Court on every Monday, Wednesday, and Friday, during the Educational Term, at half-past 9 a.m.

Common Law.

The Reader on Common Law proposes to deliver, during the Educational Term, commencing the 1st November 1853, Six Public Lectures of a general character, intended as introductory to those of the succeeding Terms. The subjects to be treated of in these Six Lectures will be as under:—

Lecture I.—On the Advantages derivable from a Study of the Law, and the mode in which that study should be pursued.

Lecture II.—Law, how distinguished from Equity. The leading branches of our Common Law defined and characterized.

Lecture III.—The Origin, History, and Jurisdiction of each of the three Superior Courts of Common Law.

Lecture IV.—Of Legal Rights and Remedies generally.

Lecture V.—Mode of Procedure in the Superior Courts.

Lecture VI.—Jurisdiction of, and Mode of Procedure in the County Courts.

With his Private Class the Reader on Common Law will consider in detail the subjects comprised in the three latter Lectures of the above Course. He will inquire into the nature of Legal Rights and Remedies, and into the respective Jurisdictions of the Superior and County Courts. The Books to be used with the Private Class will be the following:—Blackstone's (or Stephen's) Commentaries, vol. I., Introduction, sects. 2 and 3, vol. III., book 5, chap. 7., and those portions of chap. 8 which concern purely Personal Rights and Actions, Smith's Leading Cases, and any recent Treatise on the Law and Practice of the County Courts.

The Lectures on Common Law during the ensuing Term will be delivered and the Private Classes will meet in the Hall of the Inner Temple as under:—

The Public Lecture on Monday in each week at 2 p.m.; the first Lecture to be delivered on Monday the 14th November.

The Private Class on Tuesday, Thursday, and Saturday in each week, from a Quarter to 12 to a Quarter to 2 o'clock.

By Order of the Council.

(Signed) Richard Bethell,
Chairman.

Council Chamber, Lincoln's Inn.
October 22nd, 1853.

Note.—During the week commencing on the 7th November, the Public Lectures and the Classes will be suspended, owing to the Examinations to be then proceeded in.

Public Examination.—Michaelmas Term, 1853.

Public Examination.

Monday Morning, November 7th, 1853. *From Half-past Nine to Half-past Twelve.*

Questions on Constitutional Law and Legal History.

1. How was Henry the Seventh connected with the House of Lancaster?
2. What Character does Lord Bacon give of his Legislation?
3. What Act was passed affecting Land during his Reign?
4. Had any Act similar in its tendency been passed before, and when?
5. Had any attempt been made by persons not Members of the Legislature to accomplish the purpose of those Acts? Give an account of it, of the Reign when it happened, and the manner in which it was carried on.
6. What were the main Securities of English freedom when Henry the Seventh ascended the Throne?
7. Can you give any instances of their violation during his Reign, or that of his Successor?
8. Give an account of the Earl of Warwick in Henry the Seventh's time, his relation to the Crown, and his Fate.
9. Who was the Mother of Cardinal Pole, and what became of her?
10. After the Children of Henry the Seventh's Queen, who was the nearest Heir of the House of York in the Reign of Henry the Eighth?
11. Give an account of the attempted Change in the mode of holding and enjoying Landed Property during the Reign of Henry the Eighth?
12. What was the effect of this Attempt? How far did it succeed? Why was it thought desirable? Can you recollect Lord Bacon's opinion or expressions on this subject?
13. State any circumstance from which you would infer the influence of the Roman and Canon Law on the Legislation at the time of Henry the Seventh's Accession.
14. State any Act in Edward the Sixth or Mary's time from which a similar inference might be drawn.
15. How far did Henry the Eighth carry on the Reformation?
16. What was the Law of the Six Articles?
17. What were the changes in this respect introduced under Edward the Sixth?
18. Name any sufferer for Religious Opinion in the time of Edward the Sixth?
19. For what Offence were Sir Thomas More and Cardinal Fisher executed? What means were used to obtain Evidence against Sir Thomas More?
20. State the insurrections in Henry the Eighth's time, with their causes and results; and did the King give way?
21. Can you name any Nobleman tried for High Treason, and acquitted, in Henry the Eighth's time?
22. What Act of Parliament in Henry the Eighth's time was most hostile to our freedom?
23. Give an Account of Bills of Attainder. When were they first employed? Name some remarkable Persons, in the time of Henry the Eighth, who were destroyed by means of them.
24. What was the practice of our Courts of Justice, under the Reigns of the House of Tudor, with regard to the confronting of the Witnesses with the Prisoner?
25. Name any instance of persons acquitted of a charge of High Treason during the same period. What happened to the Jury in such a case?
26. Give a Character of Cranmer?

Public Examination.—Michaelmas Term, 1853.

Public Examination.

Monday Afternoon, November 7th, 1853. *From Half-past One to Half-past Four.*

Equity.

1. State the ground of the objections formerly taken to the Writ of Subpœna. When is it supposed to have been introduced, and what is the present mode of commencing a Suit in Chancery?
2. When does the Appellate Jurisdiction of the House of Lords in matters decided by the Chancellor appear to have originated? What remarkable controversy took place on the subject?
3. Explain and illustrate the maxim that Equity follows the Law. When is it inapplicable?
4. Explain the term "Equitable Assets." State in what order Assets of the following species are applicable to the payment of debts:—Real Estate devised charged with the payment of debts; Real Estate devised to be sold and the proceeds employed in the payment of debts; Chattels specifically bequeathed, and Real Estate which descends to the heir.

Public Examination—*cont.*

5. A testator bequeaths his personal Estate in general terms to one for life, with remainders over; in what manner will a Court of Equity require that this bequest should be carried into effect?

6. In what case is the Court of Chancery without jurisdiction to administer a Charitable Trust not void by the Statute of Mortmain; and what, in such an instance, is the proper mode of proceeding?

7. The purchaser of an Estate pays for it by means of a Cheque. The Vendor executes the Conveyance (by which the purchaser is released from the Purchase Money), and signs a receipt endorsed on the Deed. The Cheque is dishonoured, and the purchaser found to be insolvent. Has the Vendor a remedy under any and what circumstances?

8. A Creditor bequeaths a legacy to his debtor of equal or greater amount than the debt; does such Legacy constitute a primâ facie release of the debt in Equity so as to entitle the debtor to claim the Legacy and to retain the debt?

9. Explain the nature of a Bill of Review; by whom can it be filed, and under what restrictions?

10. What is the office of an Answer to a Bill in Equity; in what cases should an answer be put in according to the present practice of the Court?

11. Distinguish between the Averments and Answers in support of a Plea; what are the objects which they respectively fulfil?

12. Can a Purchase by a Solicitor from a Client be supported in any and what cases?

13. Distinguish between the Trust of the English and the Usufructus and Fidei-Commissum of the Roman Law.

14. State the general rule which has prevailed in the Court of Chancery respecting the proper parties to a Suit; in what respects has the rule been affected by the late Statute for Amending the Practice and Course of Proceeding of the Court?

15. In what cases can a Deed providing for a separation between Husband and Wife be supported in Equity?

16. In what respects does a *donatio mortis causâ* differ from a gift *inter vivos?*

17. What was the ancient doctrine of the Court as to alienating the subject-matter of a suit *pendente lite;* and in what manner has the rule on the subject been altered by a modern Act of Parliament?

18. A purchaser takes a Conveyance of a reversion in Fee expectant on an Estate tail in possession, and gives a bond for the amount of the purchase money; at the time of the transaction the tenant in tail has suffered a recovery, but neither Vendor nor Purchaser was aware of the fact; has the Purchaser any remedy in equity?

19. A Contract in writing is varied by a parol agreement, and a bill is filed in order to enforce specific performance of the Contract as modified by the parol variations; will the Contract so modified be enforced in any and what cases?

Public Examination.

Public Examination.—Michaelmas Term, 1853.

Tuesday Morning, November 8th, 1853. *From Half-past Nine to Half-past Twelve.*

On the Common Law.

1. Give what you consider to be the proper definition of a Simple Contract.

2. Distinguish between an Express and an Implied Covenant. Mention some of the ordinary Pleas in an Action of Covenant and of Assumpsit.

3. State shortly the extent of the Legal liability of an Infant on his Contract.—Is the Infant's Father in that character liable for his debts? Under what circumstances may he do so?

4. What is meant by the Common Indorsement of Debts and Costs? When and why is this required? and how does the Common differ from the Special Indorsement?

5. What is meant by a plea "In Confession and Avoidance?" Give instances of such a plea.

6. After what period from the service of a Writ of Summons may the plaintiff be compelled to declare? and what steps must the defendant take in order to compel him?

7. What is the Rule laid down by Dr. Story as to the liability of Principal and Agent for the price of goods purchased by the latter on account of the former?

8. Show generally in what respect the Agency of a Partner differs from that of a Clerk in an ordinary Mercantile Firm.

9. State any exception to or limitation of the Rule that "the ratification of a tortious Act done by an Agent is equivalent to a prior command."

10. How long does the Writ of Summons remain in force? and how may it be continued?

11. Of what does the plea of Not Guilty operate as a denial? and what is the effect of the plea of Non-Assumpsit in an Action against a Carrier for non-delivery of Goods?

12. What is the ordinary test for determining whether a Partnership Liability exists with regard to third persons?

13. Suppose that a Banker pays a Cheque, the signature to which is forged, who is in general to bear the loss—the Bankers or the Customer? What special circumstances may affect the decision of this question? Public Examination.

14. What is the main object of the Statute 14 & 15 Vict. c. 100., intituled an "Act for further improving the Administration of Criminal Justice," as set forth in the preamble thereto?

15. What is the present Rule as to "Election" in prosecutions for Larceny?

16. Res judicata pro veritate accipitur. What is the meaning of this Rule? Is there any exception to it?

17. What is the operation of the Statute of Frauds, with reference to Guarantees?

18. Explain fully and in what manner an Auctioneer ordinarily acts as Agent for the Vendee as well as for the Vendor of goods at a sale by Auction.

19. What is the Rule as to Joinder of Causes of Action? Is the Distinction between Local and Transitory Causes of Action still retained?

20. Give some of the instances usually put to show the distinction between Case and Trespass.

21. How is the Offence specifically charged in an Indictment for Murder? and for Larceny?

22. Explain and illustrate the meaning of the term "Asportation," as technically used in reference to Larceny.

23. State what you conceive to be the Principal Point decided in each of the following Leading Cases:—Ashby *v.* White; Collins *v.* Blantern; Scott *v.* Shepherd; Armory *v.* Delamirie.

24. Explain shortly how the position of an Accommodation Acceptor of a Bill of Exchange differs from that of an Acceptor for Value.

Public Examination.—Michaelmas Term, 1853.

Public Examination.

Tuesday Afternoon, November 8th, 1853. *From Half-past One to Half-past Four.*

On the Law of Real Property.

1. What kind of Power is that, by which a Married Woman is enabled to dispose of property given to her separate use? How many other kinds of powers are there? Give examples.

2. What words are essential to create an estate-tail by Deed? Is the same strictness of construction observable in the creation of an estate-tail by Will? Give instances.

3. Explain the difference between a Vested and a Contingent Remainder. An Estate is limited to A. for life, remainder to the first and other sons of B. in tail, remainder to C. in fee. To whom does the Estate go upon the death of A, leaving B. surviving, but unmarried? Give a reason for your answer.

4. Set out the limitations in a Conveyance to uses to Bar Dower. How was Dower thereby barred? and what substitute is provided for those limitations by recent enactment?

5. Distinguish between Powers Appendant and in Gross. A tenant for life, with a Power of leasing in possession, desires to raise a sum of money upon the security of his Life Interest—how is the Mortgage usually framed, so as to prevent any question arising as to the future exercise of the Power?

6. To what extent was the half-blood admitted under the old Law of Descent. What alteration has been effected in this respect by the 3 & 4 Will. 4. c. 106.

7. Explain the difference between Remainders, Springing Uses, Shifting Uses, and Executory Devises. Land is devised to Trustees for 500 years, remainder to the first and other sons of A. in tail, remainder to B. in fee; A. has no son at the Testator's decease: is the limitation to A.'s sons valid?

8. What is meant by a Voluntary Conveyance? In what cases will it be supported against Purchasers and Creditors? Cite Cases.

9. Within what limits are Trusts for the accumulation of Income confined?

10. Has the Act for the Abolition of Fines and Recoveries made any alteration in the exercise of powers given to married women? Land is devised to such uses as A., a married woman, shall appoint, and, in default of appointment, to her in fee. Can A, make a good title to a purchaser without the concurrence of her husband.

11. Mention the causes that led to the introduction of the Rule against Perpetuities, and the Restrictions that it has imposed upon the Power of Alienation.

12. Explain the principle of the Conveyance by Lease and Release; and point out the changes introduced by Statute into its form and mode of operation.

13. Describe the effect of a fine levied by a Tenant in tail, having also the immediate reversion in fee; has the substituted assurance the same effect under the modern system?

14. What is the origin and nature of the usual powers of Sale and Exchange inserted in settlements of Real Estate? How are they framed so as to avoid any infringement of the Rule against Perpetuities?

Public Examination—*cont.*

15. Explain the term "Equity of Redemption;" and show how it may be lost with reference to the provisions of the 3 & 4 Will. 4. c. 27.

16. Land is devised (by Will made after 1st January 1838), (1) to A. for life, and in default of issue, to B. in fee; (2) to A. (without words of limitation), and in default of issue to B. in fee, what Estates do A. and B. respectively take in the cases put?

17. "Fee Simple Estates are subject, in the hands of the heir or devisee, to debts of all kinds contracted by the deceased proprietor." Point out the changes through which the law on this subject passed, before it assumed its present form.

18. In what manner, and to what description of property, could a Title by Prescription have been formerly acquired at the Common Law? Mention the alterations introduced by Statute, and the extreme periods during which Rights of Way and of Water must now be enjoyed so as to render them indefeasible.

19. Explain and illustrate the difference between Positive and Negative Prescription. Give a brief account of the Statutory Changes in the Law affecting the Limitation of Real Actions, including those introduced by 3 & 4 Will. 4. c. 27.

20. Explain the nature of the protection afforded to a Purchaser of an Estate in fee under the old Law, by the assignment of a satisfied term of years upon trust to attend the inheritance.

Public Examination.

Public Examination.—Michaelmas Term, 1853.

Wednesday Morning, November 9th, 1853. From Half-past Nine to Half-past Twelve.

Jurisprudence and the Civil Law.

1. Give a brief sketch of the doctrine of the Pandects, as summed up by Mühlenbruch, on the subject of *Time*. What distinction did the Roman Law recognize between Natural and Civil Time?

(a) "Proximus est, cui nemo antecedit; supremus est, quem nemo sequitur."
What class of questions is solved by the application of this rule? Do you consider it defensible in principle?

2. What are the leading rules of Roman Law which determine the consequences of ignorance or mistake of *Law* on the one hand, and those of ignorance or mistake of *Fact* on the other? What is the principle which is the basis of the distinction recognized by these rules? Are those of English Law exactly identical?

3. By what stages did the Legis Actiones of the Ancient Roman Law of Civil Process pass into the Procedure by Formulas? What is the great feature of difference between English Common Law Pleading and the Formulary Pleading of the Romans? Illustrate your answer by reference to the consequences, in the two systems, of an error in Pleading.

4. State briefly the nature of the *intentio* and *condemnatio*. How came it that the condemnatio always pointed to *money* damages? Define an Exception, and describe the connexions of Exceptions with the general theory of Obligations.

5. Define an Interdict, and point out accurately the difference between Interdicts and Actions. What was the peculiar office of the Interdict *Uti Possidetis?*

6. Define Pactum, Conventio, Consensus, and Obligatio, and describe the manner and order in which the ideas expressed by these terms enter into the complete conception of a Contract. Reconcile with your definition of Consensus the word "Consensual" in the phrase "Consensual Contracts," and with those of Pactum and Conventio the expression "Exceptio pacti conventi." What was the nature and efficacy of this last exception?

7. Give strict definitions of *Testamentum* and *Hæreditas*. How far are the two conceptions dependent on each other, and which of them belongs to Universal Jurisprudence? Explain the meaning of the phrases *Hæreditas delata, hæreditas adita, hæreditas acquisita.*

8. What common principle connects the rules of Roman Law requiring the *formæ internæ*, or Internal Solemnities, of a Will? *Nemo pro parte testatus et pro parte intestatus potest mori.* What is the force of this maxim? In what did the more ancient interpretation differ from the construction of it adopted in the jurisprudence of Justinian?

9. Enumerate and explain the forms of substitution. Which do you consider the most ancient, and why? *Substitutus substituto est substitutus instituto.* What was the object of this rule? Why was it absolutely necessary?

10. Lucius Titius intestato moriturus, cum haberet uxorem et ex eâ filiam emancipatam, codicillis hæc verbæ inseruit, "Pertinent hi codicilli ad uxorem et filiam; primum autem rogo, sic inter vos agatis ut me vivo egistis; itaque rogo ut quicquid aut reliquero, aut quod vos ipsæ habetis, commune vobis sit;" filia intestati patris bonorem possessionem acceptit. Quæritur, an aliqua pars hæreditatis Lucii Titii ex causâ fidei commissi a filiâ matri deberetur, et quota?

State clearly the nature of the question which is here propounded, and the principles upon which you would base your answer. At what period in Roman Jurisprudence did such a Codicil as is here indicated first become binding upon the heir *ab intestato?* Point out with accuracy the distinction between a Bonorum Possessio and a Hæreditas.

11. Give a brief sketch of the Roman Legislation designed to prevent the refusal of proffered Inheritances, and indicate particularly those Legislative expedients which appear to have been unsuccessful. Are you able to explain the motive of this series of efforts?

12. Define Legatum and Fidei commissum. What advantages were conferred by the *hypotheca tacita* which Justinian gave to Legatees? What was the difference in principle between a Legacy or singular Fidei commiss and an aliquot share of the Inheritance? Public Examination—*cont.*

13. Under what circumstances is a Legacy not adeemed in Roman Law, (1) where the external form of the subject-matter has been changed, and (2) where the subject-matter has been sold by the Testator for valuable consideration?

14. State concisely the more general Rules of Roman Law regulating the vesting of Legacies of which the enjoyment is deferred. Explain the expressions *dies cedit, dies venit*, and the maxim "*dies incertas conditionem facit in Testamento.*"

15. Describe briefly the reciprocal obligations of the parties to a Contract of Commodate. What do you consider to be the limits of the doctrine that the Commodatory is not responsible for *vis major?*

16. When goods have been sold and remain with the Vendor, what are the Rules of Roman Law determining the liability to the risk of loss? When a Contract of Sale has been completed, what effect, in Roman Law, has delivery of the subject-matter on the rights and obligations of the parties?

17. What is the test, in Roman Law, of a validly constituted Partnership? What is a *Societas Leonina?*

18. What is the great difference recognized by Roman Law between Conditions in a Testament and Conditions in a Contract? What do you conceive to have been the principle of the distinction?

19. What is the doctrine of Roman Law in regard to Testamentary Conditions, whether suspensive or resolutive, in restraint of Marriage? Where do its rules on this subject conflict with the doctrine of English Law?

Public Examination.—Michaelmas Term, 1853.

Public Examination.

Wednesday Afternoon, November 9th, 1853. *From Half-past One to Half-past Four.*

General Paper.

1. Give an account of the English Church under Henry the Eighth, Edward the Sixth, Mary, and Elizabeth.

2. State the purport of the Acts of Parliament during those Reigns which (Religious questions set apart) most strongly mark the social progress of England.

3. What were the functions and privileges of the House of Commons at the close of Elizabeth's Reign?

4. A creditor obtains a judgment after his debtor has executed a second mortgage; the creditor then purchases the first mortgage (with notice of the second), and takes a conveyance of the legal estate; is he entitled to tack his judgment debt to the first mortgage debt, so as to postpone the second mortgage? State the reasons on which your opinion is founded.

5. A testator bequeaths specifically a sum of money "due to him on mortgage from A.B." The mortgage is paid off in the lifetime of the testator, who, upon receiving the money, reinvests it upon another mortgage security; the testator then dies. Is the legatee entitled to the amount so invested? Have the Rules of the Court of Chancery applicable to this case undergone any fluctuations? What is the doctrine of the Civil Law on the same subject?

6. To what extent are conditions in restraint of Marriage invalid? In what manner did the Rules of the English Law on this subject originate?

7. What is meant by a "moral consideration" for a promise? What seems to be the result of the cases as to the sufficiency of such a consideration? Can you mention any of the decisions alluded to?

8. If the Indorsee and Holder of a Bill of Exchange loses it, how may that affect his right to sue upon the Bill? What is the reason of the rule laid down upon this subject?

9. A. picks up a Bank Note lying on the floor of a Shop and hands it over to B. (the Shopkeeper), in order that its owner may be found. B., having failed in discovering the owner, refuses to restore the Note to A. upon demand. Is B. justified in so doing? Explain the reason of your answer. Suppose that A. had picked up the Bank Note in the street, under what circumstances would he, in at once appropriating it to his own use, be criminally liable?

10. In what way has the statute 8 & 9 Vict. c. 112. tended to make the investigation of Titles less difficult and expensive? The Act declares that "Every *satisfied* term, which "either *by express declaration or by construction of Law* shall, on the 31st December 1854, "be *attendant on the inheritance*, shall on that day cease." Explain the meaning of the words in italics.

11. From what time does the period of limitation prescribed by the 3 & 4 W. 4. c. 27. begin to run, where the claimant is a reversioner or remainderman expectant on an estate tail? Land is limited to A. for life, remainder to B. in tail, remainder to C. in fee. B. disentails and sells to a purchaser without A.'s consent. When does the statutory period begin to run as against C.?

12. Explain the doctrine of Lapse. State with precision the substance of the 32nd and 33rd sections of the late Statute of Wills. Land is devised (by will made after 1837) to A.

Public Examination—*cont.*

and his heirs; A. dies before the testator, leaving a son, who survives the testator. What state does A's son take, (1) where A. is a stranger, (2) where A. is the testator's son?

13. Give a brief summary of the arguments of Warnkönig (*Doctrina Juris Philosophica*) on the obligatory force of Nude Pacts. Is the view of such Pacts taken by the Roman Law altogether at variance with the conclusions of M. Warnkönig?

14. Explain the distinction drawn by most Foreign Jurists between the two departments of Public Law styled respectively *Jus Publicum Constitutivum (Staatsrecht Droit Public Constitutif)* and *Jus Publicum Administrativum* (*Regierungsrecht, Droit Public Administratif*). What is the peculiarity of our own Institutions which puts this distinction out of sight?

15. When a valid sentence of conviction or acquittal has been pronounced, what indirect effects may it have in States other than that in which the trial took place, and other than that to which the supposed offender owes allegiance?

Public Examination of Students.

Public Examination of the Students of the Inns of Court, held at Lincoln's Inn Hall, on the 7th, 8th, and 9th Days of November 1853.

The Council of Legal Education have awarded to—

James Charles Mathew, Esq., Student of Lincoln's Inn, a Studentship of Fifty Guineas per Annum, to continue for a period of Three Years.

Herbert Coleridge, Esq., Student of Lincoln's Inn, a Certificate of Honour as having passed the second best Examination.

Charles Bouluois, Esq., Student of the Middle Temple, and A. Boyd Purcell, Esq., Student of the Inner Temple, Certificates that they have satisfactorily passed a Public Examination.

By Order of the Council,

(Signed) Edward Ryan,

Chairman (*pro tem.*)

Council Chamber, Lincoln's Inn,
11*th November* 1853.

Rules for the Public Examination of the Students, to be held on the 11th, 12th, and 13th days of January 1854. *Dated 2nd December* 1853.

Public Examination.—Hilary Term, 1854.

The Council of Legal Education have approved of the following Rules for the Public Examination of the Students.

The attention of the Students is requested to the following Rules of the Inns of Court:—

"As an inducement to Students to propose themselves for Examination, Studentships shall be founded of Fifty Guineas per annum each, to continue for a period of three years, and one such Studentship shall be conferred on the most distinguished Student at each Public Examination; and further, the Examiners shall select and certify the names of three other Students who shall have passed the next best Examinations; and the Inns of Court to which such Student belong may, if desired, dispense with any Terms, not exceeding two, that may remain to be kept by such Students previously to their being called to the Bar. Provided that the Examiners shall not be obliged to confer or grant any Studentship or Certificate unless they shall be of opinion that the Examination of the Students they select has been such as entitles them thereto."

"At every call to the Bar, those Students who have passed a Public Examination, and either obtained a Studentship or a Certificate of Honour, shall take rank in seniority over all other Students who shall be called on the same day."

"No Student shall be eligible to be called to the Bar who shall not either have attended during one whole year the Lectures of two of the Readers, or have satisfactorily passed a Public Examination."

Rules for the Public Examination of Candidates for Honours, or Certificates entitling Students to be called to the Bar.

An Examination will be held in next Hilary Term, to which a Student of any of the Inns of Court, who is desirous of becoming a Candidate for a Studentship or Honours, or of obtaining a Certificate of fitness for being called to the Bar, will be admissible.

Each Student proposing to submit himself for Examination will be required to enter his name at the Treasurer's Office of the Inn of Court to which he belongs, on or before Wednesday, the 4th day of January next, and he will further be required to state in writing whether his object in offering himself for Examination is to compete for a Studentship or other honourable distinction; or whether he is merely desirous of obtaining a Certificate preliminary to a call to the Bar.

The Examination will commence on Wednesday, the 11th day of January next, and will be continued on the Thursday and Friday following.

It will take place in the Benchers' Reading Room of Lincoln's Inn; and the doors will be closed Ten Minutes after the time appointed for the commencement of the Examination.

The Examination by Printed Questions will be conducted in the following order:—

Wednesday Morning, the 11*th January*, at half-past Nine, on Constitutional Law and Legal History; in the *Afternoon*, at half-past One, on Equity.

Rules, &c.—*cont.*

Thursday Morning, the 12th January, at half-past Nine, on Common Law; in the *Afternoon*, at half-past One, on the Law of Real Property, &c.

Friday Morning, the 13th January, at half-past Nine, on Jurisprudence and the Civil Law; in the *Afternoon*, at half-past One, a Paper will be given to the Students including Questions bearing upon all the foregoing Subjects of Examination.

The Oral Examination will be conducted in the same order, during the same hours, and on the same subjects, as those already marked out for the Examination by Printed Questions, except that on Friday Afternoon there will be no Oral Examination.

The Oral Examination of each Student will be conducted apart from the other Students; and the character of that Examination will vary according as the Student is a Candidate for Honours or a Studentship, or desires simply to obtain a Certificate.

The Oral Examination and Printed Questions will be founded on the Books below mentioned; regard being had, however, to the particular object with a view to which the Student presents himself for Examination.

In determining the question whether a Student has passed the Examination in such a manner as to entitle him to be called to the Bar, the Examiners will principally have regard to the general knowledge of Law and Jurisprudence which he has displayed.

A student may present himself at any number of Examinations, until he shall have obtained a Certificate.

Any Student who shall obtain a Certificate may present himself a second time for Examination as a Candidate for the Studentship, but only at one of the three Examinations immediately succeeding that at which he shall have obtained such Certificate; provided that if any Student so presenting himself shall not succeed in obtaining the Studentship, his name shall not appear in the List.

Students who have kept more than ten Terms shall not be admitted to an Examination.

The Reader on Constitutional Law and Legal History will expect all Students to answer any general questions relating to the History of England, and to be well acquainted with the history of the Reigns of James the First, Charles the First, the Civil War, the Reigns of Charles the Second and James the Second.

The Candidates for distinction will be expected to know the progress of our Institutions, and the Changes of our Constitution; they will be examined as to the details of the Parliamentary Struggles, and of the State Trials during the above-mentioned Reigns; and also the progress of Constitutional Law. They will also be required to answer Questions on the Treaties between this Country and the States of Europe during the same period.

The Books for the ordinary Examination will be *Hallam*, *Rapin*, and *Blackstone*.

Those for the Candidates for distinction will be *Hallam*, *Rapin*, *Burnet's History of his own Times*, *Sir W. Temple's Letters and Memoirs*, *Lord Clarendon's History and Life*, *May's History*, and *the State Trials*.

The Reader on Equity proposes to examine in the following Books:—

1. *Mitford on Pleadings in the Court of Chancery*, *Fonblanque on Equity*, principal Cases in *White and Tudor's Leading Cases*, *the Act for the Improvement of Equity Jurisdiction*, 15 & 16 *Vict. c.* 86.
2. *Spence on the Equitable Jurisdiction of the Court of Chancery*, vol. 1, part 2, book 1; *Story's Commentaries on Equity Jurisprudence*, vols. 1 and 2; *White and Tudor's Leading Cases*, vols. 1 and 2; *Sir James Wigram's Points in the Law of Discovery*.

Candidates for Certificates of fitness to be called to the Bar will be expected to be well acquainted with the Books mentioned in the first of the above Classes.

Candidates for a Studentship or Honours will be examined in the Books mentioned in the two Classes.

The Reader on the Law of Real Property proposes to examine in the following Books and Subjects:—

1. Williams—*Real Property*.
2. Stephen—*Comm., vol.* 1, *book* 2.
3. The Learning of Powers. *Sugd. on Pow.*, chap. 1, sects. 1, 2, 4; chap. 2; chap. 3, sects. 2, 3; chap. 4; chap. 6, sect. 1.
4. *The Statutory Alterations effected in the Law of Real Property from the commencement of the Reign of William IV.*
5. The Learning of Powers. *Sugd. on Pow.*, chap. 6, sect. 9; chaps. 7, 8, 18.
6. *Cruise, Dig. tit.* 16, "Remainders."

Candidates for a Studentship or other Honorary distinction will be examined in all the foregoing Books and Subjects. Candidates for a Certificate merely will be examined in 1, 2, and 3.

The Reader on Jurisprudence and the Civil Law proposes to examine on the following Subjects:—

1. The Roman Law of Persons. The modern Treatises referred to may be the *Institutiones* and *Commentarii Juris Romani Privati* of Warnkönig; and on the subject of Tutelage, the *Pandekten* of Puchta.

Rules, &c.—*cont.*

2. The Roman Law of Criminal Process. The modern authorities consulted may be Laboulaye—*Lois Criminelles des Romains;* Plattner—*De Jure Criminum Romano, Quæst. VI.;* or Phillimore—*Introduction to the Study of Roman Law, pp.* 138, *et seq.*
3. The Conditions of Legislative Power. Austin—*Province of Jurisprudence determined, Lect. VI. pp.* 197–296.
4. The Conflict and Harmony of Laws in the Interpretation of Foreign Contracts. Fœlix—*Droit International Privé, pp.* 136, *et seq.;* Story—*Conflict of Laws, chap. viii.*
5. The Rights and Duties of Neutrals. Wheaton—*Elements of International Law,* French Ed. vol. 2, pp. 72, *et seq.*; English Ed. vol. 2, pp. 132, *et seq.*

Candidates for distinction will be examined in all the foregoing Subjects. Candidates for a Certificate will be examined in 4, and also in 1, so far as the subject there indicated is treated of in the First Book of the Commentaries of Gaius, and in the Institutes of Justinian.

The Reader on Common Law proposes to examine in the under-mentioned Books and Subjects:—

1. The Nature and Component Elements of our Common Law, as set forth in *Blackstone's (or Stephen's) Commentaries,* vol. 1, Introduction, sect. 3.
2. The Law of Contracts, so far as treated of in *Smith's Lectures* upon that subject, sects. 1–5 inclusive.
3. The Common Law Procedure Act, so far as it relates to,—
   1. Writs for commencements of Actions, sects. 2–25.
   2. Pleadings in General, ss. 49–57.
4. The Practice connected with the Indictment; what it is, when and against whom it lies, and how found. (*Archbold's Criminal Pleading, by Welsby,* 12th edition, chap. 1, sects. 1, 2, and 7.)
5. The Law as to Bailments in General. (Story on Bailments, chap. 1.)
6. The case of *Ashly v. White.* Smith's *Lead. Cas.,* 105, with the Note thereto.

Candidates who desire a Certificate merely will be examined in the first, second, and sixth of the above subjects.

Candidates for the Studentship or for Honours will be expected to answer Questions arising upon all the Subjects and portions of Books above specified.

By Order of the Council,

RICHARD BETHELL, Chairman.

Council Chamber, Lincoln's Inn, 2*nd Dec.* 1853.

Prospectus of the Lectures to be delivered during the ensuing Education Term by the several Readers appointed by the Inns of Court. *Dated* 21*st December* 1853.

PROSPECTUS of the LECTURES to be delivered during the ensuing Educational Term by the several Readers appointed by the Inns of Court.

CONSTITUTIONAL LAW AND LEGAL HISTORY.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History, in the ensuing Educational Term, will comprise the following subjects:—

Municipal Institutions of Rome; their Influence on the Social State of Europe after the Downfall of the Roman Empire—Rise of the Feudal System; its Peculiar Character—Causes of its Decay in England—Consequences of its Decay—Rise of the Middle Class—Increased Weight of the House of Commons—Management of Elizabeth—Collisions between the Crown and the House of Commons after Her Death—Conduct of the Clergy—Illegal Proclamations—Arbitrary Proceedings in the Star Chamber—Monopolies—Impeachments—Negotiations with France and Spain.

In his Private Lectures, the Reader will fill up the outline of his Public Course; he will also trace, if he has the opportunity, the History of the Law of Inheritance, Marriage and Domicile; beginning with the Roman Law and ending with our own. He will endeavour to illustrate these subjects by references to Grotius and to Sudrey, as well as to the Canon Law.

Books.

Millar, Const. Hist.
Hallam, Const. Hist.
Creasy on the English Constitution.
First and Fourth Volumes of Blackstone.
Rapin, from Henry VII. to the Rebellion.
May.
Clarendon.
Savigny, Geschichte, &c., 1 *vol.*
Roth. de re Municip.
State Trials.
Statute Book.
Montesquieu, Esprit de Loix.
Parliamentary History.

The Reader on Constitutional Law and Legal History will deliver his Public Lectures at Lincoln's Inn Hall, on Wednesday in each week (the first Lecture to be delivered on the 18th January), commencing at Two p.m. The Reader will receive his Private Classes on Tuesday, Thursday, and Saturday Mornings in each week, from half-past Nine to half-past Eleven o'clock, in the Benchers' Reading Room at Lincoln's Inn Hall.

Equity.

The Reader on Equity proposes to give, during the ensuing Educational Term, a Course of Nine Public Lectures on the Relief afforded by the Court of Chancery, which depends upon principles not recognized or applied by Courts of Common Law.

I. In matters of Trust:
1. On the Creation of Trusts.
2. On the relation between Trustee and Cestui que Trust.
3. On the Qualities of Trust Estates in General.
4. On Trusts for the benefit of Married Women.
5. On Trusts for Charities.

II. In respect of Penalties and Forfeitures:
1. The General Doctrine of Equity on this subject.
2. Application of the Doctrine to Mortgages.

III. In Cases of Mistake and Accident:
1. In Matters of Agreement.
2. In the Execution of Powers.
3. In other Instances.

In addition to the Public Lectures, it is proposed that two Classes shall be formed, as during the preceding Terms, for the study of the Principles and Practice adopted by Courts of Equity; each Class to meet for one hour three times a week. The Junior Class will read *Smith's Manual of Equity Jurisprudence*, commencing with the chapter on "Express Charitable Trusts;" portions of *Fonblanque on Equity;* the *Act for the Improvement of the Practice and Course of Proceeding in Chancery*, 15 & 16 Vict. c. 86.

The Senior Class will read *Story's Commentaries on Equity Jurisprudence*, Vol. II., commencing with the chapter on "Assignments;" *White and Tudor's Leading Cases*, Vol. II., commencing with "Woollam v. Hearn;" *Mitford's Pleadings in Chancery*, commencing with the chapter on Demurrers, at the second ground of Demurrer. Each Student will be expected, in the intervals between the meetings of the Class, to peruse portions of these and other works pointed out by the Reader, and to be prepared, at the ensuing meeting of the Class, to answer and discuss questions arising out of the subjects of their reading.

The Reader on Equity will deliver his Public Lectures at Lincoln's Inn Hall on Thursday in each week during the Educational Term, commencing at Two o'clock p.m., the first Lecture to be delivered on the 19th January. The Reader will receive his Private Classes on Monday, Wednesday, and Friday Evenings in each week, from Seven to Nine o'clock, in the Benchers' Reading Room at Lincoln's Inn Hall.

Law of Real Property, &c.

The Reader on the Law of Real Property, &c. proposes to deliver, in the ensuing Educational Term, a course of Nine Public Lectures on the Construction of Deeds and Wills.

I. The Construction of Words in a Will importing an Indefinite Failure of Issue; 1 Vict. c. 26. sect. 29.

II. The Estate taken by Trustees under a Devise, sect. 30, 31.

III. The Doctrine of Lapse, sect. 32, 33.

IV. The General Rules of Construction applicable to Deeds and Wills:—Estates by Implication—Cross Remainders—Doctrine of Cy Près.—Rule in Shelley's Case—Effect of Recitals—Conditions—Mistake—Falsa Demonstratio non nocet—Verbal alterations and Transpositions—Influence of Intention.

V. The Admissibility of Extrinsic Evidence with Reference to "the Subject and Object of Disposition"—Cumulative and Substitutional Legacies—Double Portions—Satisfaction—Resulting Trusts.

The Lectures to be delivered to the Private Classes will comprise the following subjects: With the *Senior* Class, the Text of *Sugden on Powers* will form the basis of the Lectures; and the latest decisions, illustrating the principles there laid down, will be examined and commented on. With the *Junior* Class, the subject of the Lectures will be Uses and Trusts, the text book, 1 *Cruise*, and *Dig. tit. xi.* xii.

The Public Lectures will be delivered at Gray's Inn Hall, on Friday in each week, at Two p.m.,—the First Lecture to be delivered on the 20th of January. The Private Classes will be held in the North Library of Gray's Inn, every Monday, Wednesday, and Friday Morning, from a quarter to Twelve to a quarter to Two o'clock.

Jurisprudence and the Civil Law.

The Reader on Jurisprudence and the Civil Law will, in the course of the ensuing Educational Term, deliver Nine Public Lectures on the following Subjects:—

I. On the Order and Connexion of the Departments of Law, and on the Systems of Classification adopted by Certain Modern Jurists.

II. On Status—On the Definition and Forms of Status—On some Peculiarities in the Condition of Early Societies, and the durable effects which they have produced on Ancient and Modern Jurisprudence—On the Theory of Social Progress, originated by G. B. Vico, and on the Evidence for and against it afforded by the History of the Roman Law of Persons—On the Connexion of the Roman Law of Persons with the Political Organization of the Roman State, and on the Historical Character of the Distinction between Private and Public

Prospectus, &c.—*cont.*

Law—On the Power of the Father, and on the Tutelage of Women and Pupils—On the Agencies by which the Roman Law of Persons was Progressively Modified—On the Prætorian Equity, and the Principles descended from it to Modern Jurisprudence.

III. On the provinces of International Law materially affected by Roman Jurisprudence—On Territorial Sovereignty, its Nature, Limits, and Criteria—On Paramount and Absolute Domain—On the Rights accruing to Nations through First Discovery and First Occupation—On the Mare Clausum and Mare Liberiam, and on some Disputed Questions connected with the former Topic—On Rights of River Navigation—On Maritime and Military Capture, and on the Attempts made in the Last Century to Modify the Law of War, particularly by Catherine II. of Russia—On Prisoners of War, Booty, Prize, and Postliminy—On the Rights of Neutrals, and the Mode in which they are Enforced and Protected.

IV. On Obligation and Contract—On the Roman Theory of Obligation, and on the Mode in which it has been interpreted by Pothier and Others—On the Necessary Elements of Contract, and on the Manner in which they are Discriminated by the Roman Jurists—On Pollicitations and Pacts—On the Classification of Contracts.

With his Private Classes, the Reader will proceed regularly through the principal heads of Roman Law, following the order of Topics observed in the Institutional Treatise of Gaius, and commencing with the subject of Testamentary Inheritance. The modern Commentaries principally employed will be the *Institutiones*, and *Commentarii Juris Romani Privati* of Warnkönig, the *Pandekten* of Puchta, and the *Institutes Nouvellement Expliquées* of Ducaurroy.

The following works will also be incidentally referred to at the Public or Private Lectures, and portions of them recommended for perusal:—Dumont's Bentham, Austin's "Province of Jurisprudence determined," the *Esprit des Lois*, the *Droit Civil* of Toullier, the *Doctrina Juris Philosophica* of Warnkönig, the *Histoire du Droit* of Lerminier, the *Innere Geschichte des Römischen Rechts*, and the *Aeussere Geschichte des R. R.* of Tigerström, the *Explication Historique des Instituts* of Ortolan, Wheaton's Elements of International Law, the *Droit International Privé* of Fœlix, and Story's "Conflict of Laws."

The Public Lectures will be delivered in the Hall of the Middle Temple, on Tuesday in each week, at Two p.m.; the First Lecture of the Course on Tuesday, January 24th.

After the 18th proximo, the Private Classes will assemble at the Class Room in Garden Court, on every Monday, Wednesday, and Friday during the Educational Term, at half-past Nine a.m.

Common Law.

The Reader on Common Law proposes to deliver during the Educational Term, commencing the 11th January 1854, a Course of Nine Public Lectures on Practice, Pleading, and the Law of Torts. The subjects to be discussed in these Lectures will be as under:—

Lectures I. and II.—In these Lectures will be exhibited a concise view of the Proceedings in an Action at Law, from the issuing of the Writ of Summons down to Final Judgment and Execution thereupon.

Lectures III. and IV.—The Principles of Pleading considered, with some remarks upon the Evidence necessary to support Particular Pleas; and an Inquiry respecting the Alterations in the Science of Pleading effected by the Common Law Procedure Act, and by the Pleading Rules of Trinity Term, 1853.

Lectures V. and VI.—The Fundamental Principles of the Law of Torts, or Wrongs Independent of Contract, Examined and Contrasted with those Leading Rules by which the Law of Contracts is governed.

Lecture VII.—Specifications of the various Forms of Action Ex Delicto—Inquiry how far the Forms of Action have been affected by Recent Changes.

Lecture VIII.—The Actions of Trespass, Trover, and on the Case considered with reference more especially to the Classes of facts out of which they ordinarily originate.

Lecture IX.—Ejectment—For what it lies—The mode of procedure in this Action.

With his Private Class, the Reader proposes to follow out in detail the Course of Inquiry indicated by the above Prospectus. He will examine the various steps in an Action at Law, the Rules of Pleading, and the Nature of Remedies Ex Delicto, showing under what circumstances those Remedies are respectively available. The Books to be used with the Private Class will be the following:—The Common Law Procedure Act (Ed. by Holland)—Stephen on Pleading—Selwyn's Nisi Prius—and Smith's Leading Cases.

The Public Lectures on Common Law during the ensuing Term will be delivered, and the Private Classes will meet in the Hall of the Inner Temple, as under:—

The Public Lecture on Monday in each week, at Two p.m.; the first Lecture to be delivered on Monday, January 23rd.

The Private Class on Tuesday, Thursday, and Saturday in each week, from a Quarter to Twelve to a Quarter to Two o'clock.

By Order of the Council,

(Signed) Richard Bethell, Chairman.

Council Chamber, Lincoln's Inn, 21*st Dec.* 1853.

Note.—The several Readers will receive their respective Classes on the appointed days, commencing on Wednesday the 18th January.

Public Examination.—Hilary Term, 1854.

Public Examination.

Wednesday Morning, January 11th, 1854. From Half-past Nine to Half-past Twelve.

Questions on Constitutional Law and Legal History.

1. Give an account of the Character of James the First.
2. What was the bias of his domestic Policy?
3. What part did he take in the Religious divisions of the Country?
4. Were any fresh securities provided against the Roman Catholics in his Reign?
5. Does it appear that there was then any just reason to fear the encroachments of the Roman Catholics on our Civil and Religious Liberties?
6. State any causes that suggest themselves to you why precautions might then be taken that would not now be necessary.
7. When were the Canons of the Church of England settled?
8. What were the Articuli Cleri?
9. Had any plan been devised for the Reformation of our Ecclesiastical Law?
10. Could Convocation fix the Articles of the Church of England without the assent of Parliament.
11. In what respect did James the First attempt to carry his Prerogative farther than any King had done since A.D. 1215?
12. Give an account of Lord Bacon's Character, considered only as a Statesman, as a Judge, and as a Law Officer of the Crown.
13. Mention any notorious abuse of the Prerogative in James the First's time.
14. What was the manner of proceeding in our Courts of Criminal Justice?
15. Mention any remarkable Trials.
16. Give an account of Sir Walter Raleigh's Condemnation, and of the causes that led to his execution.
17. Give an account of the Parliamentary Opposition during the time of James the First.
18. Mention any proofs of the increasing consequence of Parliament.
19. Point out the misrepresentations of Mr. Hume in his account of this period of our History.
20. Give an account of the Case of Bates.
21. State what changes took place in our Jurisprudence.
22. Mention any instance of unjustifiable violence on the part of the House of Commons during the Reign of James the First.
23. What was the Quarrel between Lord Coke and Lord Chancellor Ellesmere?
24. Give an Account of the Third Parliament of James the First, and for what it is remarkable in the History of English Party.

Public Examination.—Hilary Term, 1854.

Public Examination.

Wednesday Afternoon, January 11th, 1854. From Half-past One to Half-past Four.

Equity.

1. In what manner were Suits anciently commenced in the Courts of Common Pleas and Chancery? What occasioned the difference between the two modes of procedure?
2. What is the general nature of the Complaints on which the earliest Bills for Relief in Chancery now extant are founded? Do they confirm the Theory that the Jurisdiction of the Court originated in the assumption of authority to enforce Uses of Land?
3. Can a Demurrer be good in part and bad in part? Explain the meaning of the Rule on this subject. Is the Rule equally applicable to pleas?
4. What alteration has been made by the Statute 15 & 16 Vict. c. 86. in the practice of the Court of Chancery, with respect to the Relief granted on Bills of Foreclosure?
5. Distinguish between Executory and Executed Trusts; and between the Rules of Construction applicable to Trusts of each species.
6. In what manner is the creation of Trusts affected by the Statute of Frauds? Is any exception made to the general provision?
7. Is a Plea of Purchase for a valuable consideration without notice a good defence against a Legal title? State the reasons on which your opinion is founded.
8. The executor of a Testator, who has bequeathed pecuniary Legacies and the residue of his personal Estate, commits a *devastavit*. By whom shall the loss be sustained?
9. Distinguish between a Penalty and Stipulated Damages.
10. In what cases will a Bill lie for an Account?
11. What consideration was sufficient to support a Covenant to stand seised to uses before the Statute of Uses? And what is sufficient to support a Declaration of Trust? In what light is an imperfect Conveyance regarded in Equity?
12. What was the ancient Rule of the Common Law as to Contracts entered into by a Lunatic? In what cases will they be set aside in Equity?

Public Examination—*cont.*

13. State for what purposes, and under what restrictions, and by and against whom the Answer of a Defendant can be used at the hearing of a Cause.

14. A father dies indebted to a child for monies received to his use; the father having by his Will bequeathed a share of his residuary personal Estate to the child greater than the amount of his debts, is the child entitled to claim both the debt and the share of the residue? Mention the leading Rules relative to the subject.

15. A brother, in order to make up the fortune insisted upon by his sister's intended husband, gives a bond to her for the amount required, but secretly takes a counter-bond from her to the same amount. The marriage is solemnized, and the wife survives the husband. Will the brother be permitted in Equity to enforce his bond? State the reasons on which your opinion is founded.

16. A suit is instituted by an executor against a married woman, who is the residuary legatee of the testator, and her husband for an administration of the personal estate. The married woman, by her answer, claims her equity to a settlement. The husband dies before any further proceedings are taken in the cause. Are the children of the marriage entitled, as against their mother, to have a settlement executed?

17. A testator devises land to A., and charges them with the payment of debts and certain annuities bequeathed by the will. A. sells the land; can the purchase money be safely paid to him alone by the vendee, without the concurrence of the annuitants? State the reasoning on which the rule applicable to the case is founded.

18. In what cases will a Settlement made by a woman previously to marriage, without the knowledge of her intended husband, be set aside at his instance after the marriage has taken place?

Public Examination.

Public Examination.—Hilary Term, 1854.

Thursday Morning, January 12th, 1854. *From Half-past Nine to Half-past Twelve.*

On the Common Law.

1. Of what principal elements, according to Sir W. Blackstone, is the *Lex non scripta* composed?

2. Explain what is meant by a "Nudum Pactum," what is the Rule of Law with reference to it, and why has the Rule in question been established?

3. How long does the Writ of Summons remain in force, and how may it be removed? Under what circumstances may a renewal of the Writ be necessary?

4. Give a definition of an "Indictment," and state what test you would apply for determining whether a particular wrongful act is indictable or actionable? Under what circumstances may an act done give rise as well to an Indictment as to an Action?

5. How does Dr. Story define a Bailment?

6. What was the gist of the Action in Ashby *v.* White, and how was it decided? Give a sketch of Lord Holt's reasoning in that case. Can you mention any recent case at all similar to it?

7. How is illegality to be pleaded in an action Ex contractu? Upon what authority is your answer founded?

8. What was the point decided in Peter *v.* Compton with reference to the fourth Section of the Statute of Frauds? Upon what ground other than that taken by the Court may the decision in the above case be supported?

9. What is meant by a "Condition precedent;" and what change has been effected by the Common Law Procedure Act in reference to the mode of averring its performance in Pleading?

10. State concisely what is the peculiar office of the Grand Jury—of the Common Jury—and of the Judge on a Criminal Trial.

11. What is meant by saying that damage is "too remote" to be the subject of an action? How do you reconcile the decision in Scott *v.* Shepherd with the rule as to remoteness of damage?

12. Why is it that contradictory customs cannot be co-existent in the same place? Can you mention any customs which have been held to be "unreasonable?"

13. What is the leading case with respect to the admissibility of evidence of a local custom where there is a Lease in writing between the parties? And what was the point decided in the case alluded to?

14. In what cases may the Writ of Summons be specially indorsed?

15. A. assaults C. with malice aforethought, and B. (A.'s servant), in ignorance of the felonious design, aids in the assault, which results in the death of C.; upon these facts, what degree of criminality attaches to A. and to B.?

16. Can a Written Contract not required to be in writing by the Statute Law be varied by Evidence, (1) of a *contemporaneous*, (2) of a *subsequent* verbal agreement?

17. Ambiguitas verborum latens verificatione suppletur. Explain what is meant by this Rule.

18. What degree of care and vigilance is required from a gratuitous Bailee, and from a Bailee for hire? In what leading case is the Law upon this subject specially considered?

19. Under what circumstances, and how may a Writ of Capias be issued on Mesne Process? Public Examination—*cont.*

20. Distinguish between an Executed and an Executory Consideration. Under what circumstances will the Law, the consideration being executed, imply an antecedent request?

21. Mention the peculiar characteristics of a Special as distinguished from a Simple Contract.

22. Explain the meaning of that provision of the Common Law Procedure Act which enjoins the omission of any averment of "mutual promises to perform agreements."

23. What rule is laid down by Dr. Story for determining the right of property after a confusion or wrongful intermixture of goods?

24. State the leading rules applicable to the construction of Acts of Parliament.

Public Examination.—Hilary Term, 1854.

Public Examination.

Thursday Afternoon, January 12th, 1854. *From Half-past One to Half-past Four.*

On the Law of Real Property, &c.

1. How many kinds of estates in fee simple are there? How do they differ as to *quality;* and what effect had the statute De Donis on their *quantity?*

2. What is meant by Emblements? How does the doctrine relating thereto affect the several rights of tenant for life—for years—and at will?

3. What is the principle of Merger? Give a reason for the co-existence in the same person of *an estate tail* and the *immediate reversion in fee?*

4. In whom is the Legal or Equitable Estate vested in the following examples:—A bargain and sale to A. to the use of B.; a demise by one seised in fee to A. to the use of B.; an assignment of a term of years to A. to the use of B.?

5. Distinguish between Joint Tenancy, Tenancy in Common, and Coparcenary. A. and B. are Joint Tenants in fee; A. devises all his Real estate, and dies before B.; is the Jointure severed?

6. A man has one son, A., and two daughters, C. and D.; A. purchases an estate in fee, and dies intestate and without issue; to whom does his estate descend, and why?

7. An estate is limited to A. for life, remainder to B.'s sons in tail, remainder to C. in fee; in how many ways could A. and C. under the old Law have dealt with their respective estates so as to destroy the Contingent Remainder to B.'s sons? What difference has the 8 & 9 Vict. c. 106. made in this respect?

8. In what cases will an Alienation by a Tenant for Life of his estate suspend or destroy his power of leasing?

9. When property is not settled to a married woman's separate use, what is the extent of the marital right of disposition over her chattels personal, chattels real, and estates of inheritance?

10. Explain the difference between a Condition Precedent and a Condition Subsequent; and show how the illegality of either will affect the estate to which it is annexed.

11. Explain the operation of a Mortgage Deed at Law; and describe accurately the several rights and remedies of a Mortgagor and Mortgagee at Law and in Equity.

12. What is the object of inserting Covenants for Title in a Purchase Deed? An estate is conveyed to A., to uses to bar Dower; A. appoints to a purchaser in fee; will A.'s Covenants for Title run with the land? Give your reasons.

13. Upon what grounds has it been laid down that the Common Power of Sale and Exchange, although given generally, and not confined to be exercised within lives in being and twenty-one years afterwards, is valid?

14. Against what evils were the Statutes of Mortmain directed? Does the Statute of 9 Geo. 2. c. 36. fall, strictly speaking, within that class of Statutes? Mention its provisions, and the different descriptions of Personal property that are included therein, with any modern decisions on this point.

15. In what cases, and to what extent, is the absence of a valuable consideration fatal to the validity of a Deed of Conveyance? Can the apparent want of such a consideration on the face of the Deed be supplied by extrinsic evidence?

16. If an estate is about to be settled on A. and the heirs of his body, how can the settler prevent A. from acquiring the absolute fee?

17. What is the effect of 8 & 9 Vict. c. 106. s. 9. as to the Merger or Surrender of Reversions expectant on Leases?

18. In what cases will Marriage *not* operate as a Revocation of a Will made under a Power of Appointment?

19. What are the practical modes of Procedure by which a Married Woman is enabled to bar an entail, convey her estates of inheritance, or release a power?

20. An estate is conveyed to such uses as A. shall appoint, and in default of appointment to A. for life, remainder to the right heirs of A. A.'s marriage takes place previous to 1834; is A.'s wife entitled to her Dower? If so, can A. nevertheless make a good title to a purchaser free from Dower?

Public Examination—*cont.*

21. At what time does the Statutory period of Limitation begin to run as between Mortgagor and Mortgagee; (1.) where the Mortgagor is in possession, and (2.) where the Mortgagee is in possession?

22. What is meant by a Judgment Debt? What is its effect under the Statute of 1 & 2 Vict. c. 110. upon the landed property of the Judgment Debtor? Through what period ought an intended purchaser to extend his search for judgments against the vendor?

Public Examination.

Public Examination.—Hilary Term, 1854.

Friday Morning, January 13th, 1854. From Half-past Nine to Half-past Twelve.

Jurisprudence and the Civil Law.

1. Mention some of the principal definitions or conceptions of *Natural Law* which have obtained general currency. Have any of these exercised appreciable influence upon Legislation or upon the interpretation of Positive Law?

2. Under what circumstances is a Society of Men "political" and "independent?" Define "Sovereignty." Of what nature do you consider the Sovereignty of the United States of America, and that of the *Half-Sovereign* States of the Romano-German Empire?

3. Explain carefully the relation of the Law of Persons to the Law of Things. What advantage has the distribution of the Prussian Code, which arranges the Law of Persons after the Law of Things?

(a) What inaccuracy is there in distributing the subject matter of Law into Rights of Persons and Rights of Things?

4. Explain the nature of that portion of their system which the Roman Jurisconsults specifically denominated Jus Civile. What was it in theory? How and through what organs was it developed in practice?

5. Define a Senatus Consultum. To what class of doubts does Gaius allude when he says, "S. consultum legis vicem obtinet, quamvis fuerit quasitum?" In what cases and upon what persons were Senatus Consulta absolutely binding *in liberâ republicâ?*

6. What view did the Roman Law take of the Condition of the Unborn Child—From what period in a person's existence did the Roman Lawyers date his Civil Capacities and Incapacities? Is the doctrine of English Law at all different from theirs?

7. What were the characteristics of the modified citizenship called Latinitas Juniana? In what law did it commence, and what Act of Legislation abolished it?

8. Explain the meaning of Niebuhr's emendation on Gaius, I. 96, "*Majus Latium vocatur quum quicunque Romæ munus faciunt, non hi tantum qui magistratum gerunt, civitatem Romanam consequuntur.*" Do you consider it defensible?

9. Describe briefly the Office of the Roman Tutor. In what department of the Law was it classed, and why? What was the primitive signification of the phrases, "Auctor fieri," "Auctoritatem interponere?" Why would it have been incorrect to speak of the Roman Curator as "interposing his *authority?*"

10. What were the duties of the Tutor (1) in reference to such portions of the property of Pupillus as were unproductive at the time when the Tutelage commenced; (2) in reference to property of a wasting or perishable nature? If in these cases the tutor neglected to take the proper course, what was the measure of the reimbursements which he was compelled to make?

In answering the above question, mention any instances in which the Rule of Roman Law has been borrowed by the English Law of Trustee and Cestuique Trust.

11. Describe the three forms of Roman Marriage existing in the time of Gaius, and the Legal relation in which the wife was placed by each of them to her husband. Which form of Marriage is presupposed by the proposition in the Digest respecting the dotal estate? Give reasons for your answer.

12. What was the Coemptio Fiduciæ Causâ, and for what purposes was it resorted to?

13. Describe the nature and composition of a Questio Perpetua. From what authority did it derive its Jurisdiction, and by what instrument were its powers limited?

14. What is the special meaning of the terms "Jurisdictio" and "Cognitio" in the Roman Law of Criminal Process? What were their counterparts in the Law of Civil Process?

15. How do you account for the disappearance of the penalty of Death from the Criminal Jurisprudence of the Republic? In virtue of what authority did Cicero direct the execution of the accomplices of Cataline? What precedents had there been for the exercise of this authority?

16. What is meant by the Right of Asylum in Neutral Ports? Is the right absolute or conditional?

17. Apart from special usage, what are the local limits of the Jurisdiction exercised by Independent Nations over the portions of the Ocean in the vicinity of their Territory?

18. What are the principles of the Armed Neutrality of 1780?

Public Examination.—Hilary Term, 1854.

Public Examination.

Friday Afternoon, January 13th, 1854. *From Half-past One to Half-past Four.*

General Paper.

1. Trace the progress of Toleration from the time of Elizabeth to that of George the Second.
2. Give an account of the Bill of Rights.
3. Describe Hampden's Life and Character.
4. In what cases will the Court of Chancery grant relief against Fraud committed with reference to Wills and Testaments?
5. A. and B. his wife mortgaged the lands of B. to C. in fee, and duly levied a fine for that purpose—the right of redemption being reserved by the mortgage deed to A. and his heirs. C. afterwards purchased the equity of redemption, and A. and B. conveyed the lands to C. and his heirs by lease and release. B. died shortly afterwards; A. survived thirty years, and no claim was made upon C. during A.'s lifetime. Upon A.'s death, his eldest son by B. files a bill to redeem. Can such a bill be sustained? Explain the grounds of your opinion.
6. Explain the Rules of Court as to the admission of Parol Evidence regarding the effect to be given to an instrument or several instruments in writing, when the doctrine of equitable presumption can be applied.
7. Distinguish between *damnum sine injuriâ* and *injuria sine damno;* illustrating your answers by examples.
8. A. (a married woman), living separate from her husband and receiving from him a weekly allowance for her support, saved a certain portion thereof and invested it in the Funds in her maiden name. Shortly before her death she sold out the Stock thus invested, and handed over the proceeds to C. as a gift. Can B. (A.'s husband) recover back from C. the money so paid over to him by Action at Law?
9. Goods belonging to A. are stolen from him by B., from whom C. innocently purchases them. Will an action lie for recovery of the goods at suit of A. against B. and against C.? What considerations may in either case be material as regards the plaintiff's right to recover?
10. The 42nd section of 3 & 4 Will. 4. c. 27. enacts, that "no arrears of interest in "respect of any sum of money payable out of any land shall be recovered but within *six* "years from the time the same shall have become due;" and the 3rd section of 3 & 4 Will. 4. c. 42. enacts, that "all actions of covenant upon any specialty shall be sued within *twenty* "years after the causes of such actions." How do you reconcile these two sections in the case of a Mortgage Deed containing the usual covenant for payment of principal and interest, when more than twenty years arrears of interest have accrued due?
11. To what extent has the power of alienating Contingent and Executory interests, by deed or will, been enlarged by *recent* Legislation? An estate is limited to A. for life, remainder to the right heirs of G. S., who is living at the time the limitation takes effect; G. S. dies, leaving B. his eldest son and heir-at-law; B. devises his Contingent interest to C.; A. dies. Is the devise by B. valid at the present day?
12. Donee of a general power appoints to his son A. for life, with remainder to his (A.'s) sons as tenants in common in fee; A. being unborn at the time the power was created. Is this a valid limitation of the property? Would it make any and what difference if the power were a particular one? or, in this latter case, whether the power was created by Deed or Will?
13. According to the existing Doctrine of International Law, what description of supplies may be considered *Contraband of War?* Under what circumstances may Contraband be carried without incurring the penalty of Confiscation?
14. In protesting a dishonoured Bill of Exchange which has been drawn under one Jurisdiction and has been made payable under another, and in giving notice of dishonour to the persons liable, ought the protest and notice to be according to the forms of the place in which the Bill is drawn, or according to forms of the place in which it is made payable? Give reasons for your answer.
15. When a contract is made in one country respecting immoveable property situate in another, ought the forms of the Contract to follow the lex loci contractûs, or the lex loci rei sitæ? Is the doctrine of M. Fœlix on this point sustainable?

Public Examination of the Students of the Inns of Court, held at Lincoln's Inn Hall, on the 11th, 12th, and 13th Days of January 1854.

Public Examination of Students.

The Council of Legal Education have awarded to—

Jasper Kenrick Peck, Esq., Student of Lincoln's Inn; a Studentship of Fifty Guineas per Annum, to continue for a period of Three Years.

Walter Robinson, Esq., Student of the Inner Temple; a Certificate of Honour as having passed the second best Examination.

Charles Piffard, Esq., Student of Lincoln's Inn; Henry Rowcliffe, Esq., Student of the Inner Temple; and George Norton Darby, Esq., Student of Lincoln's Inn; Certificates that they have satisfactorily passed a Public Examination.

By Order of the Council,

Council Chamber, Lincoln's Inn, 17*th January* 1854. (Signed) Richard Bethell, Chairman.

Inner Temple.

Answer to Circular from Inner Temple.

Answer to the Circular of Her Majesty's Commissioners from the Treasurer of the Hon. Society of the Inner Temple.

Inner Temple, May 29, 1854.

Sir,

In reply to your Letter of the 12th inst. requesting on behalf of the Inns of Court Commissioners, a Statement of the existing Arrangements for Promoting the Study of the Laws and Jurisprudence in this Inn, and of any information connected with this branch of their Inquiry; and in particular as to the Lectures, or Examinations provided by this Inn, and as to the Existence or Non-Existence of a Library, and the Regulations in respect of Admission to such Lectures or Library; I beg leave to inform you, for the information of the Commissioners, that the subject of Legal Education has for many years past occupied the anxious attention of the Masters of the Bench of this Society. In the year 1853 a Committee having been appointed to inquire into the propriety of giving Lectures upon Jurisprudence, made a Report, recommending the appointment of Two Lecturers, one to Lecture upon the principles of the Law as administered in the Superior Courts of Common Law and Equity in this Country, and the other upon the general principles of Jurisprudence and International Law. This was considered as an experiment, and it was left to the option of the Students, whether they would attend or not; and it was reserved for future consideration, whether it would be expedient to make the attendance on Lectures compulsory, as a preliminary to a call to the Bar.

The recommendation of the Committee was adopted, and the late Mr. Starkie was appointed to Lecture upon Common Law and Equity; and Mr. John Austin, upon general Jurisprudence and International Law.

The experiment did not succeed, and in January 1853, the Lectures were discontinued in consequence of the small attendance of Members.

In the year 1846, the late Mr. Starkie (the Queen's Counsel) having in the ordinary course of rotation been appointed Reader of the Inner Temple, delivered a Course of Lectures during his year of Office, which, however, were not numerously attended.

In the month of January, 1846, a Committee of this House was appointed, to whom some Orders made by the Societies of the Middle Temple and Lincoln's Inn, upon the subject of promoting the Legal Education of the Students, were referred, and who met Committees appointed by the other Inns, to consider that question. The Committee of this Society at the close of that year made a Report, suggesting that it should be proposed to the other Inns of Court, that Lectures should be given in all the Inns, and that there should be an annual Examination of Candidates for Rewards and Honours, to be adjudged to the best Proficients in Law and Equity. That a certain number of Prizes, in the way of Chambers or an equivalent, should be conferred on the best Proficients in Law and in Equity; and that a certain number of secondary Prizes in Law Books or Gold Medals, should be given to the next best. That the Examinations should be voluntary. That the Candidates should be at liberty to choose whether they would be examined in Law or Equity; and that every Student should be required, as a condition precedent to his call to the Bar, to produce a Certificate of his having attended two Courses of Lectures.

These recommendations were not at that time adopted by the Bench.

In June 1847, Mr. Robert Hall, a Barrister of Lincoln's Inn, was appointed Lecturer to this Society for three years. He was then appointed for another year, the Bench having it in contemplation to make some more permanent arrangement as to Legal Education. He delivered Lectures during these four years; the attendance, however, was very small.

In Michaelmas Term, 1851, this Society, appointed a Committee to confer with Committees of the other Inns of Court on the subject of Legal Education.

The Joint Committees in Easter Term following made the accompanying Report, in which it will be seen, that the Suggestions made by the Committee of the Inner Temple in January 1846 were embodied.

The Inner Temple, as well as the other Inns of Court, adopted this Report of the Joint Committees, and Mr. Keating, Q.C. and Mr. Rolt, Q.C., were appointed by the Inner Temple, Members of the Council of Legal Education to carry it into effect.

The Printed Proceedings of the Council of Education which are forwarded herewith, will furnish all the requisite information, as to the Lectures and Examinations, since the Council was established.

The Library of the Inner Temple contains about 16,000 Printed Volumes, and 500 Volumes of Manuscript; it is open from Ten till Four in Winter, and from Ten to Five in Summer, to all Members of the Society, and to all gentlemen upon special leave granted by the Bench.

It is frequented, upon an average, by not less than thirty Students each day.

The Society have expended in Books during the last few years, about 600*l.* a year.

I am authorized by the Masters of the Bench to add that they are ready and desirous to give to the Commissioners any further information they may require.

I have the honour to be, Sir,

Your very obedient servant,

W. Whateley, Treasurer.

Julius Talbot Airey, Esq.,
Secretary, Inns of Court Inquiry Commission, &c. &c.

COPY.

PATENT of both the TEMPLES to the BENCHERS of both HOUSES.

Copy of Patent of both the Temples, &c.

(Sent in by the INNER TEMPLE.)

JAMES, by the Grace of God, of England, Scotland, France, and Ireland, King, Defender of the Faith, TO ALL TO WHOM these present Letters shall come Greeting. WHEREAS our Realm of England having been for so many ages exceedingly prosperous in the particulars of Peace and War, and having by the singular Providence of God in his own time devolved upon us by hereditary right, is sensible that great part of its welfare is justly owing to the ancient and proper Laws of that Realm, tried through a long series of ages and particularly adapted to that populous and warlike nation, and approved by constant experience: AND WHEREAS the Inns of the Inner and Middle Temple, London, being two out of those four Colleges the most famous of all Europe, as always abounding with persons devoted to the study of the aforesaid Laws and experienced therein, have been, by the free bounty of our progenitors, Kings of England, for a long time dedicated to the use of the Students and Professors of the said Laws to which as to the best Seminaries of learning and education very many young men, eminent for rank of family and their endowments of mind and body, have daily resorted from all parts of this Realm, and from which many men in our own times as well as in the times of our progenitors have by reason of their very great merits been advanced to discharge the public and arduous functions as well of the state as of justice, in which they have exhibited great examples of prudence and integrity, to the no small honour of the said Profession and adornment of this realm and good of the whole commonwealth, as is to us abundantly manifest: KNOW YE, THEREFORE, that we, being desirous of perpetuating, as far as in us lies, the welfare of this Realm of England, flourishing for so many ages by the administration of the said Laws, and compassing not so much the continuance of its ancient renown of the said Inns as an accession of new honour, and to leave upon record to all posterity a testimony of our good will and munificence to the Profession and to the Professors of the said Laws, HAVE of our especial Grace, certain knowledge, and mere motion, given and granted, and by these Presents for ourselves, our heirs, and successors, DO give and Grant to our well-beloved and faithful Councillor Sir Julius Cæsar, otherwise Adelmary, Knight, Chancellor, and Under Treasurer of our Exchequer; Sir Henry Montague, Knight, Recorder of our City of London, one of our Counsel in the Law; William Towse, Esquire, Richard Daston, Esquire, Treasurers of the said Inns; Sir John Boys, Knight, Andrew Gray, Thomas Farmer, Ralph Ratcliffe, Matthew Dale, Hugh Hare, Matthew Cratcherood, George Wild, Thomas Pagitt, John Hare, William Gibbes, Richard Brownlowe, Bartholomew Man, Edmund Prideaux, John Cavell, George Croke, Henry Hall, Roger Dale, Richard Swayne, Anthony Dyott, Francis Morgan, Edward Stapleton, Nicholas Overbury, John Hele, James Walroud, John Harris, Thomas Stephens, Elisha Hele, George Wrightington, Edward Bromley, William Bastard, Esquires; Sir John Jackson, Knight, John Jermy, Rice Gwynne, Francis Tate, John Walter, Francis More, David Waterhouse, Laurence Hide, William Brocke, George Gascoigne, Paul Ambrose Croke, William Swanton, John Lloyd, Francis Harvy, Thomas Cæsar, Edward Cason, and William Fletcher, Esquires, our aforesaid Inns and capital Messuages and buildings, with the appurtenances called or known by the name or names of the Inner and the Middle Temple, or New Temple, or any of them, being in the suburbs of our City of London, and within the Temple Barre of London aforesaid; and all our Messuages, Halls, Houses, Edifices, Cloisters, Buildings, Chambers, Gardens, Courts, Lanes, Passages, Yards, Ways, Paths, Void Grounds, Walls, Pavements, and Lands, Ground, and Soil whatsoever, being within the site, precinct, compass, and circuit of the said places called the Inner Temple and the Middle Temple, or New Temple, and of the capital Messuages aforesaid, and other the premises, or as part or parcel of the same, and other the premises or any of them always theretofore had, known, taken, or reputed so to be; AND all that Bridge called the Temple Bridge; ALSO all that annual rent or annual payment of Ten Pounds, late parcel of the possessions and revenues of the late Hospital of Saint John of Jerusalem, in England, and issuing or paid out of the tenements aforesaid, called or known by the name of the Inner Temple, otherwise called the Inner Part of the Temple, London, or out of the Treasure of the same Society of the Inner Temple, or by the Treasurer of the same Society, to be paid yearly; AND one other annual rent or annual payment of Ten Pounds, late parcel of the possessions and revenues of the said late Hospital of Saint John of Jerusalem, and issuing or paid out of the tenements aforesaid, called or known by the name of the Middle Temple, London, or out of the Treasure of the same Society of the Middle Temple, London, or by the Treasurer of the same Society, to be paid yearly; AND the reversion and reversions of all and singular the premises and of every part thereof; ALSO all that Church, Edifices, and Buildings of the Church used for or dedicated to Divine Worship, Prayers, and celebrating the Sacraments and Sacramentals, commonly called the Temple Church, situate within the site, circuit, and precincts of the aforesaid Inns, Messuages, and other the premises above, by these presents before granted, or any of them; and all that the Chancel and Nave and Bellfry of the same Church, with the Bells, being in the same, and the Churchyard, Cloisters, and all the Chapels, Chambers, and Buildings, to the same Church adjacent or erected, and the reversion and reversions of all and singular the premises, and

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of every part thereof: WE GIVE ALSO and of our certain knowledge and mere motion, for ourselves, our heirs, and successors, grant to the aforesaid Julius Cæsar, Henry Montague, William Towse, Richard Daston, John Boys, Andrew Gray, Thomas Farmer, Ralph Ratcliffe, Matthew Dale, Hugh Hare, Matthew Cratcherood, George Wild, Thomas Pagitt, John Hare, William Gibbes, Richard Brownlowe, Bartholomew Mann, Edmund Prideux, John Cavell, George Croke, Henry Hall, Roger Dale, Richard Swayne, Anthony Dyott, Francis Morgan, Edward Stapleton, Nicholas Overbury, John Hele, James Walroud, John Harris, Thomas Stephens, Elisha Hele, George Wrightington, Edward Bromley, William Bastard, John Jackson, John Jermy, Rice Gwynne, Francis Tate, John Walter, Francis More, David Waterhouse, Lawrence Hide, William Brocke, George Gascoigne, Paul Ambrose Croke, William Swanton, John Lloyd, Francis Harvy, Thomas Cæsar, Edward Cason, and William Fletcher, their heirs and assigns, within the aforesaid Messuages, Lands, Tenements, and other the premises by these presents before granted and within every part thereof, all best view of Frankpledge, Assise and Assay of Bread, Wine, and Ale, and all other Jurisdictions, Franchises, Liberties, Privileges, Immunities, and Exemptions, such and which and as fully, freely, and entirely, and in as ample a manner and form as the late Priors and Brothers of the said late Priory of Saint John of Jerusalem, in England, or any of them, or any other or others having or occupying the aforesaid Messuages, and other the premises or any part thereof, at any time had, held, or enjoyed, might have, hold, or enjoy in the aforesaid Messuages, Lands, and Tenements above, by these presents before granted, or in any part thereof, by reason or colour of any Charter of Gift, Grant, or Confirmation, or of any Letters Patent by us, or by any of our progenitors, heretofore had, made, or confirmed, or by reason or colour of any lawful Prescription, Use, or Custom theretofore had or used, or by or in any other Legal manner, right, or title, and as fully, freely, and entirely as all and singular the same in our hands now are or should or might be; EXCEPT NEVERTHELESS wholly to ourselves, our heirs, and successors, the reservation, nomination, donation, and free disposition to the Office of Master or Keeper of our House and Church of the New Temple of London aforesaid, and of the Rectory of the aforesaid Church, and the ordination and appointment of the same Master, Keeper, or Rector of the House and Church aforesaid as often as and whenever in future it shall happen to be vacant; TO HAVE AND TO HOLD the aforesaid Inns, Messuages, Houses, Edifices, Chambers, Gardens, Liberties, Franchises, Privileges, Immunities, and all and singular other the premises above by these Presents before Granted, and every part thereof, with all their appurtenances (except as before excepted), to the aforesaid Julius Cæsar, Henry Mountague, William Towse, Richard Daston, John Boys, Andrew Gray, Thomas Farmor, Ralph Ratcliff, Matthew Dale, Hugh Hare, Matthew Cratcherood, George Wild, Thomas Pagitt, John Hare, William Gibbes, Richard Brownlowe, Bartholomew Man, Edmund Prideaux, John Cavell, George Croke, Henry Hall, Roger Dale, Richard Swayne, Anthony Dyott, Francis Morgan, Edward Stapleton, Nicholas Overbury, John Hele, James Walroud, John Harris, Thomas Stephens, Elisha Hele, George Wrightington, Edward Bromley, William Bastard, John Jackson, John Jarmy, Rice Gwynne, Francis Tate, John Walter, Francis More, David Waterhouse, Lawrence Hide, William Brook, George Gascoigne, Paul Ambrose Croke, William Swanton, John Lloyd, Francis Harvey, Thomas Cæsar, Edward Cason, and William Fletcher, their heirs and assigns, to the proper behoof and use of them the said Julius Cæsar, Henry Mountague, William Towse, Richard Daston, John Boys, Andrew Gray, Thomas Farmor, Ralph Ratcliffe, Matthew Dale, Hugh Hare, Matthew Cratcherood, George Wild, Thomas Pagit, John Hare, William Gibbes, Richard Brownlowe, Bartholomew Man, Edmund Prideaux, John Cavell, George Croke, Henry Hall, Roger Dale, Richard Swayne, Anthony Dyott, Francis Morgan, Edward Stapleton, Nicholas Overbury, John Hele, James Walroud, John Harris, Thomas Stephens, George Wrightington, Edward Bromley, William Bastard, John Jackson, John Jermy, Rice Gwynne, Francis Tate, John Walter, Francis More, David Waterhouse, Lawrence Hide, William Brock, George Gascoigne, Paul Ambrose Croke, William Swanton, John Lloyd, Francis Harvy, Thomas Cæsar, Edward Cason, and William Fletcher, their heirs, and assigns, WHICH said Inns, Messuages, Houses, Edifices, Chambers, and other the premises we will and by these presents for ourselves, our heirs, and successors, strictly command shall serve for the Entertainment and Education of the Students and Professors of the Laws aforesaid, residing in the same Inns for ever: YIELDING annually to us, our heirs and successors, for the aforesaid premises, called or known by the name of the Inner Temple, with the appurtenances, Ten Pounds of lawful money of England; and for the premises called by the name of the Middle Temple, otherwise Ten Pounds of like money of England, at the receipt of our Exchequer, at the Feasts of St. Michael the Archangel, and the Annunciation of the Blessed Virgin Mary; to be paid in equal portions; AND TO HOLD all and singular the premises of us, our heirs and successors, as of our Manor of East Greenwich, in free and common Socage by fealty only, and not in Chief, for all services and demands to us, our heirs and successors, therefore to be paid or made: AND the said Julius Cæsar, Henry Mountague, William Towse, Richard Daston, John Boys, Andrew Gray, Thomas Farmor, Ralph Ratcliff, Matthew Dale, Hugh Hare, Matthew Cracherood, George Wild, Thomas Pagitt, John Hare, William Gibbs, Richard Brownlowe, Bartholomew Man, Edward Prideaux, John Cavill, George Croke, Henry Hall, Roger Dale, Richard Swayne, Anthony Dyott, Francis Morgan, Edward Stapleton, Richard Overbury, John Hele, James Walroud, John Harris, Thomas Stephens, Elisha Hele, George Wrightington, Edward Bromley, William Bastard,

Copy of Patent of both the Temples, &c.

John Jackson, John Jermy, Rice Gwynne, Francis Tate, John Walter, Francis More, David Waterhouse, Lawrence Hide, William Brocke, George Gascoigne, Paul Ambrose Croke, William Swanton, John Lloyd, Francis Harvy, Thomas Cæser, Edward Cason, and William Fletcher, for themselves, their heirs and assigns, covenant and undertake to and with us, our heirs and successors, that they, the aforesaid Julius Cæsar, Henry Mountague, William Towse, Richard Daston, John Boys, Andrew Gray, Thomas Farmor, Ralph Ratcliffe, Matthew Dale, Hugh Hare, Matthew Cratcherood, George Wild, Thomas Pagitt, John Hare, William Gibbs, Richard Brownlowe, Bartholomew Man, Edmund Prideaux, John Cavell, George Croke, Henry Hall, Roger Dale, Richard Swayne, Anthony Dyott, Francis Morgan, Edward Stapleton, Richard Overbury, John Hele, James Walroud, John Harris, Thomas Stephens, Elisha Hele, George Wrightington, Edward Bromley, William Bastard, John Jackson, John Jermy, Rice Gwynne, Francis Tate, John Walter, Francis More, David Waterhouse, Lawrence Hide, William Brocke, George Gascoigne, Paul Ambrose Croke, William Swanton, John Lloyd, Francis Harvy, Thomas Cæsar, Edward Cason, and William Fletcher, their heirs and assigns, will, from time to time, set apart and appoint a convenient Mansion and House near the aforesaid Church, for the aforesaid Master or Keeper of the House and Church aforesaid, and his successors for the time being, for his residence and habitation, so long as the Master or Keeper of the said House or Church shall remain, and will maintain the same at their own proper costs and charges for ever; and also will, from time to time pay, or cause to be paid, one annuity or yearly payment of Seventeen Pounds Six Shillings and Eightpence of lawful money of England, to the said Master or Keeper of the House and Church aforesaid, and to his successors, in part maintenance of him, the said Master and Keeper and his successors for the time being, yearly, at the feasts of St. Michael the Archangel, and of the Annunciation of the Blessed Virgin Mary for ever, in equal portions, over and above Twenty Pounds yearly rent or payment to be made by us, our heirs and successors, to the before-mentioned Master or Keeper and his successors for the time being, yearly, at the Feasts aforesaid: AND MOREOVER, that they will well and sufficiently maintain and keep up the aforesaid Church Chancel and the Bellfry of the same, and all other things to the same Church in any manner appertaining of and in all respects and in all things at their own proper costs for ever, for the Celebration of Divine Service and the Sacraments and Sacramentals and other the Ministerial Offices and Ecclesiastical Rites whatsoever henceforth for ever, as is befitting and heretofore accustomed: AND FURTHER, of our mere especial grace, certain knowledge and mere motion, we will and grant by these presents, for ourselves, our heirs and successors, to the before mentioned Julius Cæsar, Henry Mountague, William Towse, Richard Daston, John Boys, Andrew Gray, Thomas Farmor, Ralph Ratcliff, Matthew Dale, Hugh Hare, Matthew Cratcherood, George Wild, Thomas Pagitt, John Hare, William Gibbs, Richard Brownlowe, Bartholomew Man, Edmund Prideaux, John Cavill, George Croke, Henry Hall, Roger Dale, Richard Swayne, Anthony Dyott, Francis Morgan, Edward Stapleton, Nicholas Overbury, John Hele, James Walroud, John Harris, Thomas Stephens, Elisha Hele, George Wrightington, Edward Bromlay, William Bastard, John Jackson, John Jermy, Rice Gwynne, Francis Tate, John Walter, Francis More, David Waterhouse, Lawrence Hide, William Brock, George Gascoigne, Paul Ambrose Croke, William Swanton, John Lloyd, Francis Harvy, Thomas Cæsar, Edward Cason, and William Fletcher, their heirs and assigns, that these our Letters Patent, or the enrollment of the same, be in all respects and for all purposes firm, valid, good, sufficient and effectual in Law, to and against us, our heirs and successors, without any Confirmation, License, or Toleration from us, our heirs and successors, hereafter to be procured or obtained: NOTWITHSTANDING that the said Inns, Messuages, and other the premises, or any parcels thereof, be ill described, or not described, not recited, or ill recited; and notwithstanding that no sufficient Office or Inquisition wholly of the said premises, or any part thereof be found, by which our title ought to be found before the completion of these our Letters Patent; And notwithstanding the not reciting, or ill reciting any misprision or other uncertainty of our title, or of the estate of either or any of the tenants or occupiers of the said premises, or of any part thereof; and notwithstanding that there be any gift, demise or Grant of the premises, or any part thereof, of record or not of record heretofore made, not recited in these presents; and notwithstanding any other defect in the ascertaining, or computing, or declaring the true annual value of the premises, or of any part thereof; and notwithstanding the Statute in Parliament of the Lord Henry the Fourth, late King of England, in the first year of his Reign, in that behalf made and provided; and notwithstanding any defect in not rightly naming the natures, kinds, sorts, quantities, or qualities of the said premises, or of any part thereof: WE WILL ALSO, and by these presents, grant to the before-mentioned Julius Cæsar, Henry Mountague, William Towse, Richard Daston, John Boys, Andrew Gray, Thomas Farmor, Ralph Ratcliffe, Matthew Dale, Hugh Hare, Matthew Cratcherood, George Wild, Thomas Pagitt, John Hare, William Gibbs, Richard Brownlowe, Bartholomew Man, Edmund Prideaux, John Cavell, George Croke, Henry Hall, Roger Dale, Richard Swayne, Anthony Dyott, Francis Morgan, Edward Stapleton, Nicholas Overbury, John Hele, James Walroud, John Harris, Thomas Stephens, Elisha Hele, George Wrightington, Edward Bromley, William Bastard, John Jackson, John Jermy, Rice Gwynne, Francis Tate, John Walter, Francis More, David Waterhouse, Lawrence Hide, William Brock, George Gascoigne, Paul Ambrose Croke, William Swanton, John Lloyd, Francis Harvy, Thomas Cæsar, Edward Cason, and William Fletcher, that they do and shall have these our Letters Patent under our Great Seal

Copy of Patent of both the Temples, &c.

of England, duly made and sealed, without fine or fee, great or small, to be for us into our Hanaper or elsewhere for our use therefore in any manner rendered, paid, or made: To THE INTENT that express mention of the true yearly value, or of the certainty of the premises, or any of them, or of any other Gift or Grant by us, or by any of our ancestors or progenitors, to the said Julius Cæsar, Henry Mountague, William Towse, Richard Daston, John Boys, Andrew Gray, Thomas Farmor, Ralph Ratcliffe, Matthew Dale, Hugh Hare, Matthew Cratcherood, George Wild, Thomas Pagitt, John Hare, William Gibbs, Richard Brownlowe, Bartholomew Man, Edmund Prideaux, John Cavell, George Croke, Henry Hall, Roger Dale, Richard Swayne, Anthony Dyott, Francis Morgan, Edward Stapleton, Nicholas Overbury, John Hele, James Walroud, John Harris, Thomas Stephens, Elisha Hele, George Wrightington, Edward Bromley, William Bastard, John Jackson, John Jermy, Rice Gwynne, Francis Tate, John Walter, Francis More, David Waterhouse, Lawrence Hide, William Brock, George Gascoigne, Paul Ambrose Croke, William Swanton, John Lloyd, Francis Harvy, Thomas Cæsar, Edward Cason, and William Fletcher, or to either or any of them heretofore made, but not made in these Presents, may remain, or any Statute, Act, Ordinance, Provision, Proclamation, or Restriction to the contrary heretofore made, done, issued, ordained, or provided; or any other thing, cause, or matter whatsoever in any wise notwithstanding. IN WITNESS whereof we have caused these our Letters to be made Patent.

WITNESS ourselves at Westminster this Thirteenth day of August, in the Sixth year of our Reign in England, France, and Ireland, and in Scotland the Forty-Second.

By writ of Privy Seal,

(Signed) SA ZUPF LUKYN.

Dated 2nd November 1732.

Abstract of Deed between Inner and Middle Temple, 2nd November 1732.

ABSTRACT of DEED between the Honourable Societies of the Inner and Middle Temples.

By indenture made between Sir William Yorke, Knight, and others, of the Middle Temple, of the first part; Edward Barker, Esquire, and others, of the Inner Temple, of the second part; and Sir Thomas Clarke, Knight, and others, of the third part: RECITING the late King James the First, by his Letters Patent under the Great Seal of England, bearing date at Westminster, the 13th August, in the sixth year of his reign, did Grant unto Sir Julius Cæsar, Knight, and others, the Inns of Court and capital Messuages and buildings, with the appurtenances called or known by the name or names of the Inner Temple and the Middle Temple, or of the New Temple, London, or any of them, being within the suburbs of the City of London, and within the Temple Barr of London aforesaid, and all Messuages, Halls, Houses, Edifices, Cloisters, Buildings, Chambers, Gardens, Courts, Lanes, Passages, Yards, Ways, Paths, Void Grounds, Walls, Pavements, and Lands, ground, and soil whatsoever, within the scite, precinct, compass, and circuit of the places aforesaid, called the Inner Temple and Middle Temple, or New Temple, and the capital Messuages aforesaid, and other the premises or any of them, then being or at any time thentofore had, known, accepted, or reputed as part or parcell thereof, and of other the premises or any of them; and all that the Bridge called the Temple Bridge; AND ALSO all that whole annual rent or annual payment of Ten Pounds, late parcell of the possessions and revenues of the late Hospitall of St. John of Jerusalem, in England, and issuing or paid out of the aforesaid tenements called or known by the name of the Inner Temple, otherwise called the Inner Part of the Temple, London, or out of the Treasure of the same Society of the Inner Temple, or by the Treasurer of the same Society, yearly to be paid; and one other annual rent or annual payment of Ten Pounds, late parcell of the possessions and revenues of the said late Hospitall of St. John of Jerusalem, and issuing or paid out of the aforesaid tenements called or known by the name of the Middle Temple, London, or out of the Treasure of the same Society of the Middle Temple, London, or by the Treasurer of the same Society, yearly to be paid; AND ALL that the Church, Building, and Structure of the Church used or dedicated for the Celebrating Divine Service, Prayers, Sacraments, and Sacramentals, commonly called the Temple Church, situate within the scite, circuit, and precincts of the said Inns, Messuages, and other the premises granted by the said Letters Patent, or any of them; AND ALL that the Chancel, and Nave, and Bellfry of the same Church, with the Bells therein, and the Churchyard, Cloyster, and all Chapells, Chambers, and Buildings adjacent or built to the said Church; AND ALSO within the said Messuages, Lands, Tenements, and other the premises, and within every parcell thereof, all leet view of Frankpledge, Assize, and Assay of Bread, Wine, and Ale; and all other Jurisdictions, Franchises, Liberties, Immunities, and Exemptions, such and which, and as fully, and fully and wholly, and in as ample manner and form as the late Priors and Brethren of the said late Priory of St. John of Jerusalem, in England, or any of them, or any other or others of the said Messuages and other the premises, or any parcell thereof, having or occupying at any time had, held, or enjoyed, or he or they ought to have had, held, and enjoyed in the foresaid Messuages, lands, and tenements above mentioned, or in any parcell thereof, by reason or colour of any Charter, Gift, Grant, or Confirmation, or of any Letters Patent by the said late King James the First, or any of his progenitors thentofore had, made, or confirmed, or by reason or colour of any lawful Prescription, Use, or Custom thentofore had or used, or any other Lawfull Manner, Right, or Title whatsoever, and as fully, freely, and wholly as the same then were, or ought to have been, in His said late Majesty King James's hands, and the reversion, &c.;

except nevertheless, and always reserved to his said late Majesty, his heirs and successors, the nomination, donation, and free disposition to the Office of Master or Keeper of the said House, and Keeper of the said House and Church of the New Temple, London, aforesaid, and of the Rectory of the said Church, and of the ordination and appointment, and of the Master, Keeper, or Rector of the House and Church aforesaid, as often and whensoever for the future it should happen to become vacant: To HOLD the said Inns, Messuages, Houses, Buildings, Chambers, Gardens, Liberties, Franchises, Privileges, Immunities, and all and singular other the premises granted by the said Letters Patent, and every parcell and every other parcell thereof, with all their appurtenances (except before excepted) unto the said Sir Julius Cæsar and others, their heirs and assigns, to their use for ever; which said Inns, Messuages, &c., are by the said Letters Patent appointed to serve for the Entertaining and Educating the Students and Professors of the Law residing in the same Inns for ever thereafter, as by the said Letters Patent, relation being thereunto had, may more fully appear: RECITING that Sir Julius Cæsar and others died, whereby Sir Harry Montague and others whereby appointed: RECITING by Indenture of Bargain and Sale, dated 13th June, Tenth Charles Second, between Sir Henry Montague and others of the one part, and John Bailiffe, of the Utter Barr, Under Treasurer of the said Middle Temple, and John Barker, gentleman, Chief Butler of the Middle Temple, of the other part, and duly enrolled in Chancery, they, the said Earl of Manchester, did Bargain and Sell to the said John Bailiffe and John Barker, their heirs and assigns, the said Inns of Court, &c., to hold to the said John Bailiffe and John Barker, their heirs and assigns, for ever: RECITING, by Indenture of Bargain and Sale, dated 16th October, Tenth Charles Second, between John Bailiffe of the one part, and the said Earl of Manchester and others of the other part, they, the said John Bayliffe, for the considerations therein mentioned, did Bargain and Sell to the said Earl of Manchester and others, their heirs and assigns, the said two Inns of Court granted by said Letters Patent, to hold to said Earl of Manchester and others, their heirs and assigns: RECITING, the said Earl of Manchester and others having died, the said Thomas Mallett and others having survived them, were seized, by right in survivorship, of the said Inns, &c.: RECITING, by Indenture of Bargain and Sale, dated 14th May 1665, between Thomas Mallett, Esquire, and others, of the one part, and William Jones and others of the other part, they, the said Sir Thomas Mallett and others, did Bargain and Sell to the said John Jones and others the said two Inns of Court, &c., to hold to the said William Jones, &c.: RECITING, by Indenture of Bargain and Sale, dated 5th May 1657, made between said William Jones, &c. of the one part, and said Sir Thomas Mallett and others of the other part, they, said William Jones and others, for the considerations therein mentioned, did Bargain and Sell unto said Sir Thomas Mallett and others, their heirs and assigns, the said two Inns of Court, &c., to hold to said Sir Thomas Mallett and others, their heirs and assigns: RECITING, the said Sir T. Mallett, and others died, and Nicholas Lechmere and Thomas Bayliss survived them, and were seized in fee by right of survivorship: RECITING, by Indenture of Bargain and Sale, dated 7th February, thirty-fifth Charles Second, made between Nicholas Lechmere and another of the one part, and James Buck and others of the other part, they, said Nicholas Lechmere and another, did Bargain and Sell to said James Buck and others the said two Inns of Court, &c., to hold to said James Buck and another, their heirs and assigns: RECITING, by Indenture of Bargain and Sale, dated 13th February, Thirty Fifth Charles Second, made between said James Buck and another of the one part, and Sir Francis Withins, Knight, of the other part, said James Buck and another did Bargain and Sell unto said Sir Francis Withins and others the said two Inns of Court, &c., to hold to said Sir Francis Withins and others, their heirs and assigns: AND RECITING that said Sir Francis Withins and others having died, and William Whitlocke and Sir Henry Chauncey having survived them, became seised in fee by right of survivorship to said Inns of Court, &c., granted by said Letters Patent: AND RECITING by Indenture of Bargain and Sale, dated 23rd November, 7th Queen Anne, made between said William Whitlocke and another of the one part, and said James Buck and another of the other part, and duly enrolled, they, said Sir William Whitlocke and another, did Bargain and Sell to said James Buck and another, their heirs and assigns, the said two Inns of Court, &c., to hold to said James Buck and another, their heirs and assigns: AND RECITING, by Indenture of Bargain and Sale, dated 24th November, 7th Queen Anne, between said James Buck and another of the one part, and said Sir William Whitlocke and others of the other part, and duly enrolled, they, said James Buck and another, did Bargain and Sell unto said Sir William Whitlocke and others, their heirs and assigns, the said two Inns of Court, &c., to hold to said Sir Thomas Whitlocke and others, their heirs and assigns: AND RECITING the said Sir Thomas Whitlocke and others having died, whereby the inheritance and fee simple in Law of and in said Inns of Court, &c., with their appurtenances, devolved upon and vested in Roger North and others by survivorship: AND RECITING, by Indenture of Bargain and Sale, dated 27th August, 5th George 2nd, made between said Roger North and others of the one part, and Richard Bruncker, Under Treasurer of the Middle Temple, and Samuel Ryley, Chief Butler of the same Society, of the other part, and duly enrolled, they, said Roger North and others, did Bargain and Sell unto said Richard Bruncker and another, their heirs and assigns, the said two Inns of Court, &c., to hold to said Richard Bruncker and another, their heirs and assigns: AND RECITING, by Indenture of Bargain and Sale, dated 28th August, 5th George 2nd, made between said Richard Bruncker and another of the one part, and Sir Philip Yorke and others of the other part, and duly enrolled, they, said Richard Bruncker and another, did Bargain and Sell unto said Sir Philip Yorke and others

Abstract of Deed, &c.—*cont.*

Abstract of Deed, &c.—*cont.*

the said two Inns of Court, &c., to hold to said Sir Philip Yorke and others, their heirs and assigns, as by said Letters Patent and said several Indentures of Bargain and Sale hereinbefore in part recited may more at large appear; WHICH said several Indentures of Bargain and Sale before recited and mentioned to bear date the 10th of Charles the 1st, 1635, and others, were severally made to preserve the inheritance and fee simple of the premises from descending to or devolving upon the infants or strangers to said Society: AND RECITING several disputes and differences have arisen between said Societies, not only touching the Buildings and Bounds, Ways and Passages, Ground and Soil, Lights, Casements, and other conveniences belonging to and used by each Society, separate and apart from the other Society; but also touching the Estate in Law in and to such of the premises comprized in said Letters Patent, as solely belonging to and are in the separate possession of said Society of the Inner Temple, and the Members thereof as Members of that Society: AND RECITING, at a Parliament of said Society of Middle Temple, held 2nd July 1731, it was ordered that it should be referred to said Thomas Reeve, George Jones, and Richard Agar, or any two of them, to conclude and settle with any of the Members of the Society of the Inner Temple (to be authorized by that Society) the Limits and Boundaries, Buildings and Grounds of the two Societies, and to conclude and settle such Conveyances as they, or any two of them, should think fit for conveying of the Buildings, Ground, and Possessions of such part of the Temple as should be so settled to belong to said Society of the Inner Temple, to Trustees and their heirs, to be named by said Society of the Inner Temple, and for the transferring and conveying of the Buildings, Ground, and Possessions of such part of the Temple as should be so settled to belong to said Society of the Middle Temple, to the Masters of the Bench of the same Society, or twenty of them at the least, and to their heirs, and such Agreements and Conveyances so to be made and settled by said Thomas Reeve and others, or any two of them, should be conclusive and binding on the part of the said Society of the Middle Temple; and further, that if said Conveyance should not be made and executed before the 24th of August the next following, the surviving Trustees should execute a Conveyance of the Middle and Inner Temples to the Under Treasurer and Chief Butler of said Society of the Middle Temple, and that said Under Treasurer and Chief Butler should re-convey the same to said Sir Philip Yorke and others: AND RECITING, at a Parliament of said Society of the Inner Temple, held the 3rd day of July, it was ordered and enacted that it should be referred to said John Ward and Francis Annesley to conclude and settle such Agreement and Conveyance for making a division of the Ground and Possessions of such Inner and Middle Temple as they should think proper, and such Agreements, &c. should be binding on the part of the Inner Temple: AND RECITING, the said John Ward and Francis Annesley had several meetings and conferences with said Thomas Reeve and George Jones, and with said George Jones and Richard Agar, upon the subject matter of said Acts of Parliament; and the Buildings, Grounds, and Possessions of each of the said Societies were at length ascertained, and these possessions for conveying the same respectively have been settled and concluded, by and between said John Ward and another on behalf of the Inner Temple, and said Thomas Reeve and others on behalf of the Middle Temple; but such Conveyance so to be made as aforesaid could not be made before the said 24th of August, by reason whereof said Indenture of Bargain and Sale, dated 27th August, 5th George 2nd, was made by said Roger North and others to said Richard Bruncker and Samuel Ryley; and said other Indenture of Bargain and Sale, dated 28th August, was made by said Richard Bruncker and another to said Sir Samuel York and others, in pursuance of the above-recited Acts of Parliament of said Society of the Middle Temple in that behalf: AND RECITING, at a Parliament of said Society of the Middle Temple, held 26th November last, it was ordered that said Sir Philip Yorke and others should transfer and convey their interest in the premises in such manner and to such persons as should be agreed upon, in Trust for the Inner and Middle Temple respectively: WITNESSETH that said Sir Philip Yorke and others, at the request and by the direction of the Treasurers and Masters of the Bench of the Inner and Middle Temples, testified by their signing and sealing the same; and in pursuance of said Act of Parliament made in the Middle Temple for that purpose, and in consideration of Ten Shillings to said Sir Philip Yorke and others, paid by said Edward Barker and others, have bargained and sold to said Edward Barker and others, and to their heirs and assigns, all that ground and all those Buildings called the Inner Temple, situate, lying, or being between Fleet Street and the River Thames, as the same is and are now used and enjoyed by said Society of the Inner Temple; all that gate opening into the Street called Fleet Street towards the north, opposite to the south end of the Street called Chancery Lane, and the Ground and Soil of said Gate and Gate Place, with Sole Custody of the Keys thereof; and all that Lane called the Inner Temple Lane, leading from said Gate to the Temple Church Porch, with the Steps from the said Lane down into said Porch, saving and reserving nevertheless for ever hereafter free Ingress, Egress, and Regress for the Members of the Middle Temple through the Gate and Lane at all seasonable times, in as ample a manner as the Members of the Inner Temple; and all those two small Shops, the one in and the other near said Gateway, on the west side of said Inner Temple Lane; AND ALSO all that Staircase or Building, with the Shops and Chambers on each side of said Staircase, and the Ground and Soil thereof, situate on the east side of the same Lane, and adjoining to the Court or Passage called Church-yard Court towards the North, and to the Chambers or Buildings belonging to the Middle Temple towards the South, and all those Chambers upOne Pair of Stairs above the Ground Floor and the Garrets over the same, with the Stairs leading thereto, situate on the South side of Church-

Abstract of Deed, &c.—*continued.*

yard Court, in that Staircase or Building near the North side of the Temple Church, and adjoining to the Churchyard towards the East; And all those Shops, Staircases, and Buildings adjoining to the West side of the Inner Temple Lane aforesaid, and to the Temple Church Porch, the lowest of which said Staircases or Buildings abutteth in part to the South end of the same Lane; And also the Shop adjoining to such lowest of the Staircases last mentioned to the West and East to said Temple Church Porch, and being over against the great Door of the Temple Church; And the Ground and Soil of said last-mentioned Buildings and Soil; And also all that Court called Hare Court, and the Buildings, Staircases, Ground, and Soil thereof, bounded on the North by the Buildings belonging to Fleet Street aforesaid, on the West by the Lane called the Middle Temple Lane, on the South in part by the Buildings of Pump Court, (viz.,) the second Staircase from the Middle Temple Lane on the North side of Pump Court, and which adjoineth backwards unto Hare Court, and in other part by Pump Court aforesaid, and on the east by the buildings of the Inner Temple Lane, including the ground within the Pallisadoes on the back of the said second Staircase on the North side of Pump Court aforesaid, together with liberty of the three Doors opening into the Middle Temple Lane, the one of them out of the Fine Office and the other two out of the Prothonotary's Office, and the use of the steps under the same Fine Office Door and the Door of the Prothonotary's Office, next thereto, with liberty from time to time to repair the same (the area or small piece of ground at the south-west corner of Hare Court aforesaid, between the Fine Office Buildings and the back part of the Buildings of the North-West corner of Pump Court, next the Middle Temple Lane, and the Pallisadoes enclosing the same area only excepted); And all that Staircase or Building fronting towards said Temple Church, and adjoining to Pump Court aforesaid, towards the South, and Hare Court aforesaid towards the West, and in part of the Building belonging to said Society of the Inner Temple at the bottom of the Inner Temple Lane, and in other part towards the North upon the Buildings on the South side of the Staircase at the bottom of said Inner Temple Lane, belonging to the Middle Temple; And all that Building containing a Shop and two Stories or Chambers over the same, and the Ground and Soil thereof, in Lamb Building Court, formerly part of the South Churchyard, situate on the East side of the Staircase there leading up to the Chambers over the Middle Temple Cloisters, and other Buildings to the Middle Temple, and on the West side of another Staircase of the said Middle Temple leading up to other Chambers of said Middle Temple in the same Court, with the free use of the Stairs in the last-mentioned Staircase to go up to the said two Storeys or Chambers over the said Shop last mentioned, and down from the same; And all those little Shops and Buildings, and the Ground and Soil thereof, extending Eastward from the Building of the Middle Temple on the east side of the second Staircase last mentioned to the Buildings at the east end of the Court called Tanfield Court (except the Buildings there called the Vestry); And also all that low Building called Judge Twisden's Building, adjoining to the North side of the Inner Temple Hall, and the Ground and Soil thereof; And also all that Court called Tanfield Court, with the Staircases and Buildings on the East and South sides thereof, and the Staircase ranging therewith and fronting towards the King's Bench Walks, and the Ground and Soil of the same, including the Ground within the Pallisadoes on the East side of Lamb Buildings aforesaid; And also all that low Building called the Exchequer Office, and the Ground and Soil thereof, adjoining to the East side of the Garden belonging to or used with the House inhabited by the Master of the Temple, with liberty to make a Drain adjoining to the West Wall of the said Office under Ground for conveying the Water and to maintain the same; And also all that the Soil and Ground of the King's Bench Walks and the Inner Temple Garden, and all Buildings belonging to the same, bounded on the North by Mitre Court and Ram Alley, part of Serjeant's Inn in Fleet Street, the Alienation Office and Garden belonging to the same Office, on the East by part of Serjeant's Inn aforesaid, and the said Garden and Office and White Fryers, on the South by the River Thames, and on the West from the said River to the South end of the Buildings of Elm Court, belonging to the Middle Temple aforesaid, adjoining to the Middle Temple Lane (all which King's Bench Walks, Inner Temple Garden, Buildings, and Premises last-mentioned, are hereby declared to be the Buildings, Ground, and Soil of the Inner Temple), together with the Gates opening into the Middle Temple Lane by or under the Crown Office Buildings, and the Gates and Doors opening into White Fryers, Serjeant's Inn, Ram Alley, and Mitre Court aforesaid, with the Ground and Soil thereof, and all Erections thereon, and the Sole Custody of the Keys of the said Gates; And also all that Court called Fig Tree Court, and those Buildings called the Garden Buildings, and Crown Office Buildings, and the Ground and Soil thereof, and the piece of Void Ground lying between the North side or back part of the said Crown Office Buildings, and the back part of the Buildings of the South side of Elm Court, and extending from the Middle Temple Lane to the further jett or break of the back part of said Buildings of Elm Court eastwards, and continuing in length 53 feet 9 inches of assize, and in breadth next the Lane six feet three inches, and next to Fig Tree Court eight feet or thereabouts; together with the Door there opening into said Middle Temple Lane (the stone Steps at the end of the Passage out of said Elm Court into said Figtree Court, and a piece of Ground in said Fig Tree Court containing in length from said Steps eastward sixteen feet, and in breadth three feet eight inches, and likewise the Ground between the two jetts or breaks of the back part of said Buildings of Elm Court, being the Steps, Ground, and Soil of the Middle Temple hereby excepted); And also a Way and Passage, and Free Ingress, Egress, and Regress to and from the same last excepted Ground, and the Sheds or Buildings thereon, in, by, and through

Abstract of Deed, &c.—*cont.*

said Void Ground at the back of said Crown Office Buildings, allotted to said Society of the Inner Temple, with liberty of enclosing said first excepted piece of Ground with Pallisadoes, being hereby saved and reserved to the Members of said Society of the Middle Temple for ever; AND ALSO all that Building on the East side of Fig Tree Court aforesaid, with the Cloysters or Passage under the same, and the Ground and Soil thereof; AND ALSO all those two Staircases or Low Buildings on the North side of the same Court, with the Passage between the same, and the Ground and Soil thereof; AND ALSO all that little Cloyster or Passage called the Inner Temple Cloyster, and the Ground and Soil thereof, lying at the south end of the Cloysters called the Middle Temple Cloysters, saving and reserving the way and passage in, by, and through the said Inner Temple Cloyster to a Shop at the west end thereof, belonging to the Middle Temple; AND ALSO all that Staircase or Building adjoining to the Inner Temple Hall, towards the West end thereof, extending over the Butterys belonging to the said Hall, and over the Inner Temple Cloyster aforesaid, and adjoining to the South end of the Buildings over the Middle Temple Cloysters; AND ALSO ALL those Buildings called the Inner Temple Hall, Parliament Chambers, Library, Butterys, Kitchen, and Cellars, and the Chambers and Rooms, Stairs and Passages, belonging to or under them or any of them, with the Ground and Soil thereof; AND ALSO ALL that the said Rent or Annual Payment of Ten Pounds, formerly issuing or paid out of the aforesaid Tenements called the Inner Temple, or out of the Treasury, or by the Treasurer of the same Society, if the same be now subsisting, and vested in the said Sir Philip York and others; AND ALL that the Southern Moiety or half part of the Temple Church, that is to say, of the Chancel, Nave, Belfry, and Rounds, from the middle thereof southwards, with all the Seats, Roofs, Parts of Roofs, Walls, Cells, Aisles, and Vaults, of and in such Southern Moiety or half part of the said Church, and the Soil belonging to the same Moiety; the Chapel or Oratory adjoining to the South side of said Church, near the Rounds of the same Church, wherein the Records of the Fine Office and the Custos Brevium now are and for several years have been kept, and the Vestry Room adjoining also to the South side of the same Church only excepted; AND one undivided Moiety of said Chappel Land Vestry Room; AND one undivided or half part of the Bells, Organ, Pulpit, Reading Desk, Clerk's Desk, and Communion Table, belonging to the said Church; AND ALSO one undivided Moiety or half part of the House or Garden enjoyed by the Master, Keeper, or Rector of the House and Church aforesaid, with liberty for the Drain aforesaid; AND ALSO one undivided Moiety of the Ground and Soil of the Churchyard or Cemetery belonging to said Church, and lying on the North side thereof; AND one undivided Moiety or half part of the Court or Passage called Churchyard Court, and also of the Soil or Void Ground leading from said Churchyard Court to the Ground Rooms at the back of Mr. Owen Lloyd's Shop, situated on the North side of the Church Porch, containing in length from North to South, on the East side thereof, thirty-seven feet, and on the West side forty feet and two inches, and in breadth from East to West, at that end next to Churchyard Court, ten feet and five inches, and at the other end, next to Mr. Owen Lloyd's Shop, seven feet or thereabouts; AND one undivided Moiety of the Soil or Void Ground of the Church Porch now paved with Flag Stones, and of the Area or Void Ground from the South side of said Church Porch to the Middle Temple Cloysters; AND one undivided Moiety of all that Court or Void Ground between the Middle Temple Cloysters and the Lamb Buildings, formerly called the South Churchyard and now called the Lamb Buildings Court, and of the Ground and Soil at each end of the said Lamb Buildings, the Ground within the Pallisadoes at the front of said Lamb Buildings, together with the Pallisadoes thereof excepted; AND one undivided Moiety of the Bridge Passage leading from the Inner Temple Cloyster to Elm Court, so far only as the Inner Temple Buildings do extend; AND ALSO one undivided Moiety of the Bridge, Stairs, and Causeway leading from the Middle Temple Water Gate, at the bottom of Middle Temple Lane, to the River Thames, together with the liberty of a Way and Passage, Free Ingress, Egress, and Regress into and through the Middle Temple Gates opening into Fleet Street, and in, to, and through the Lane leading from Fleet Street to the Water Gate towards the River Thames aforesaid, for the use of all Members of the Society of the Inner Temple for the time being, on Foot or on Horseback, and with Horses, Coaches, Carts, and Carriages, at all seasonable times, in such and as ample manner as the Members of the Middle Temple aforesaid do and shall use the same, the said Society of the Inner Temple paying to said Society of the Middle Temple for ever hereafter the sum of six pounds yearly for and towards the charges of Paving and Repaving said Middle Temple Lane; AND ALSO with the liberty of a Way or Passage in and through the Gates opening to the River Thames to Devereaux Court and Paul's Gravehead Court, for the use of the Members of said Society of the Inner Temple for the time being, at all seasonable times, in such and as ample manner as the Members of the Middle Temple do and shall use the same, together with Laid Leet View of Frankpledge, Assize and Assay of Bread, Wine, and Ale, within the limits of the Inner Temple aforesaid, in case the same are now subsisting and vested in said Sir Philip York and others; AND ALL other Jurisdictions, Franchises, Liberties, Privileges, Immunities, and Exemptions, within the premises herein-before Bargained and Sold, as before granted by said late King James the First; and also all Easements, Privileges, Immunities, Profits, and Commodities whatsoever to said premises before mentioned and intended to be hereby Bargained and Sold as aforesaid, or any of them, or any part thereof belonging or therewith used and enjoyed in such manner as heretofore: SAVING and reserving to the Middle Temple the liberty to continue the Pallisadoes in Tanfield Court behind Lamb Building, and to erect new ones from time to time in the same place in the room

thereof for ever hereafter; and also to continue the Palisadoes in Hare Court at the back of the Chambers in Pump Court aforesaid, adjoining backwards to Hare Court aforesaid, and to erect new ones for ever hereafter; AND ALSO saving and reserving to the Members of the Middle Temple Free Ingress, Egress, and Regress into and through the Gate at or near said Building called the Crown Office Building, leading towards King's Bench Walks and the Gates at the East side of said King's Bench Walks, leading into White Fryers, on Foot or Horseback, and with Horses, Coaches, Carts, and Carriages, at all seasonable and convenient times, in such manner as the Members of the Inner Temple do use the same; and also the liberty of a Way or Passage through the Gates opening into Mitre Court, Ram Alley, and Serjeants Inn aforesaid, at all seasonable times, in such manner as the Members of the Inner Temple do: TO HOLD said Inn of Court called the Inner Temple, Messuages, &c. belonging to said Inner Temple, Bargained and Sold with their Appurtenances (except as aforesaid) unto said Edward Barker and others, their heirs and assigns, for ever; in trust nevertheless for the purposes appointed in said Letters Patent, videlicit, to serve and be employed for the Entertaining, Education, and Habitation of the Students and Professors of the Law residing within said Inner Temple from henceforth hereafter. IT IS FURTHER WITNESSED that said Sir Philip Yorke and others, at the request of the Treasurers of both Societies and the Masters of the same Societies, and by Orders of Parliament, made in said Societies for the Purpose aforesaid, and in consideration of ten shillings paid to said Sir Philip Yorke and others, by said Sir Thomas Clarke and others, they, said Sir Philip Yorke and others, did Bargain and Sell unto said Sir Thomas Clarke and others, their heirs and assigns, all that Ground and all those Buildings called by the name of the Middle Temple, as the same are now used and enjoyed by said Society of the Middle Temple, that is to say, all that great Gate and Gate Place of said Society of the Middle Temple called the Middle Temple Gate, opening into the said Street called Fleet Street towards the North, and near unto the Gate there called Temple Barr; together with the two Shops on each side of said Middle Temple Gate, and the Ground and Soil of said Gate and Gate Place and Shops; and all Chambers and Buildings over the same; And all that Ground and Lane leading from said Middle Temple Great Gate to the Stone Bridge called the Temple Water Bridge, at the Southern end of said Lane, together with the Water Gate and Gate Place at the South end of said Lane, opening to said Lane opening to said Bridge and River of Thames; and all Erections, Buildings, and Sheds over said Gate and Gate Place, or adjoining or near thereunto, with the Sole custody of the Keys of the same two Gates, saving and excepting nevertheless such Free Ingress, Egress, and Regress, for all Members of the Inner Temple, in and through the same at all times as the Members of the Middle Temple (said Society of the Inner Temple paying to the Middle Temple six pounds yearly as aforesaid); AND ALSO all those three Staircases with the Shops, Chambers, on the East side of said Middle Temple Lane, at or near the North end, and adjoining South to Buildings belonging to Hare Court, and the Ground and Soil thereof, and all that Staircase, with the Shops, Chambers, and Buildings on the West side of said Lane near to said Middle Temple Great Gate, and the Soil and Ground thereof; AND ALL those Courts called or known by several names of Brick Court, Essex Court, New Court Hall or Fountain Court, and Garden Court, and all the Ground, Soil, Staircases, Chambers, Shops, and Buildings of and in same Courts; AND ALL that Gate or Door and Gate, or Door Place leading from Essex Court aforesaid, into and above-mentioned Court called Paul's Grave Head Court; AND ALL that other Gate and Gate Place leading from New Court aforesaid into a Passage called Devereux Court above mentioned; together with the Sole custody of the Keys of the two last mentioned Gates (excepting nevertheless for the Members of the Inner Temple such privileges as the Members of the Middle Temple); AND ALSO all that large Hall or Building called the Middle Temple Hall, with its appurtenances; AND ALL those two ranges on the West side of said Middle Temple Lane, the one of them beginning at the South East corner of said Court called Hall or Fountain Court, and leading down same Lane southwards to the Passage between the South end of same range of Buildings, and the North end of the other of them, commonly called Barbons Buildings, and leading from said Middle Temple Lane into Garden Gate; AND ALL that the said range of Buildings leading from said last-mentioned Passage down to said River Thames towards the South, and lying between said Middle Temple Lane towards the East, and the Middle Temple Garden towards the West, commonly called the Barbons Buildings, together with said Passage leading into Garden Court; AND ALSO said Middle Temple Garden, and the Fountain in said Court called Hall or Fountain Court, and all other Ground, Soil, Staircases, Chambers, Shops, Buildings, and Erections whatsoever, situate, lying, or being on said West side of said Middle Temple Lane, and bounded West by Buildings belonging part to Essex Street and part to Devereux Court, and by a Messuage or Tenement situate next the river Thames, now in the occupation of John Henley, and are hereby declared to be the Buildings of the Middle Temple, and also all that Ground and Soil; AND ALL those Buildings on the East side of the Middle Temple Lane, extending from said void piece of ground lying at the back of Crown Office Building on the South side of and to Buildings in Hare Court on the North, that is to say, all that Court called Elm Court, and all those four Staircases or Buildings in the same Court, and the Soil and Ground thereof, and all Erections thereon; and all the Soil and Ground, with the Sheds or Buildings thereon, lying at the back of the Buildings on the South side of said Elm Court, between the two Jetts or Breaks of the back part of said Buildings of same Court, and abutting on said void piece of ground there belonging and allotted to said Society of the Inner Temple on the South; and all that Passage leading from said Court called Elm Court to Fig Tree Court,

Abstract of Deed, &c.—*cont.*

Abstract of Deed, &c.—*cont.*

and the Stone Steps into the same, and a piece of Ground in said Fig Tree Court containing in length sixteen feet and in breadth three feet eight inches or thereabouts, inclosed with Pales by the Middle Temple; AND ALL that Stone Passage leading from Middle Temple Lane into Elm Court, and all other Passage leading from said Court to Inner Temple Lane Cloister, so far as the Buildings extend; AND ALL that Passage leading from said Middle Temple Lane into Pump Court; AND ALL that said Court called Pump Court; AND ALL those six Staircases of Buildings in the same Court, to wit, three Staircases on the South side thereof, one Staircase at the West end thereof, and two Staircases on the North side thereof; AND ALL THE CHAMBERS and Buildings which the same six Staircases do lead unto, with the Ground and Soil thereof, and all that Passage on the South side of same Court and leading to Elm Court; AND ALSO all that the above-mentioned Area or void piece of Ground at the South West corner of Hare Court, between said Fine Office Buildings and the back part of the Buildings of the North West corner of Pump Court, next the Middle Temple Lane, together with the Pallisadoes enclosing same; AND all those Buildings and Chambers called the Middle Temple Cloysters, situate between Pump Court towards the west Lamb Building, formerly part of South Churchyard East, and the Inner Temple Cloysters South, and the Ground and Soil thereof; AND ALL that Shop on the West said Middle Temple Cloysters then in the occupation of Mr. Walthoe, Bookseller; AND ALL that one other Shop in the possession of R. Barber, Eastward on part of said Middle Temple Cloysters, and on part of said Inner Temple Cloyster, and to the South on said Stone passage leading from said Court, called Elm Court, of said Inner Temple Cloyster, together with the Way and Passage leading to last-mentioned Shop in and through the Inner Temple Cloyster, and the Ground and Soil of said two Shops; AND ALL that Building called Lamb Building, and the Ground and Soil thereof; and the Pallisadoes at the front of same Building, with the Ground within those Pallisadoes, together with liberty to continue the Pallisadoes in Tanfield Court, at the back of Lamb Building, and to erect new ones in stead thereof; AND one undivided Moiety of said Court called Lamb Building Court, and of the void Ground and Soil at the end of Lamb Building; and all those Chambers, Staircase, and Buildings, and the Ground and Soil thereof at the North-East corner of said Middle Temple Cloysters, and adjoining backward to said South side of said Temple Church, and extending on the North side of said Lamb Building Court from said Middle Temple Cloysters to a small Building belonging to the Inner Temple, situate between the two Staircases on the North side of same Court; AND ALL that Shop and the Chambers over the same, with the Staircase leading thereto, situate on the East side of said small Building, and the Ground and Soil thereof, SAVING such use and liberty of the Stairs of said Staircase as is before allotted to the Inner Temple; AND ALSO all that Shop at the South-West corner of the Church, and at the North-East corner of said Middle Temple Cloysters, or very near to said Church, in the occupation of Thomas Gamull, Stationer, and the Ground and Soil thereof; AND ALL that Shop, situate on the North side of said Church Porch, near the Great Door of said Church, in the possession of Owen Lloyd; AND ALL those Ground Rooms on the East side of Inner Temple Lane, behind the same Shop last mentioned, and the Ground and Soil thereof; AND ALL that Staircase on the East side of Inner Temple Lane, at the South or lower end thereof, being the last Staircase from the Inner Temple Gate, in that range of Buildings; AND ALL Chambers and Buildings on each side of same Staircase, with the same Staircase, and the Ground and Soil thereof, and under the Walls and Buildings of the same Staircase, EXCEPT the Soil of the Steps leading from Inner Temple Lane into the Church Porch, and of the Shop on the West side of said Church Porch, belonging to the Inner Temple, and the Soil of the Church Porch, which Soil of the Church Porch is in common between the two Societies (the Chambers on the South side of same Staircase being in part built over said Church Porch; in other part over the Passage leading from the Inner Temple Lane into said Church Porch, and in other part over the Shop on West side of said Church Porch, and adjoining Westward upon the Buildings of the lowest Staircase of the Inner Temple at the bottom of Inner Temple Lane, and Southwards in part upon Buildings of the Inner Temple over the Passage leading from Hare Court to the Church Porch; AND ALL those two Staircases or Buildings, with the Chambers on each side of said Staircases, and the Ground and Soil thereof, on the North side of the Court or Passage called Church Yard Court, and abutting on the Churchyard towards the East and said Inner Temple Lane towards the West; AND ALL those Ground Chambers in said Building or Staircase on the South side of said Church Yard Court, and at the East end thereof near the North side of said Church, and adjoining to the Churchyard towards the East, and the Cellars under the same, with the Stairs leading into said Cellars, and the Ground and Soil of said premises, and the Ground and Soil between said Chambers and said Temple Church; AND ALSO all that rent or annual payment of ten pounds, issuing out of the Tenements in the Middle Temple, if subsisting; AND ALL that the Northern Moiety, or half part of the Church, viz., the Nave, Chancell, Belfrey, and Rounds from the Middle Temple Northwards, with all Seats, &c., in the Northern part thereof, and the Soil belonging thereto; and one Moiety of said Chappell, and all other the premises herein-before described: TO HOLD said Inn of Court called the Middle Temple, with the Messuage, &c. Bargained and Sold unto said Sir Thomas Clarke and others, their heirs and assigns for ever, IN TRUST, for the Uses and Purposes appointed by the said Letters Patent, to serve and be employed for the Entertaining, Education, and Habitation of the Students and Professors of the Law, residing within the Middle Temple; ALL which said Inner Temple Lane, Inner Temple, Hall, Courts, Buildings, and Premises thereby Bargained and Sold unto said Edward Barker and

Abstract of Deed, &c.—*cont.*

others (except the Ways, Lights, Easements, and Conveniences for the Members of the Middle Temple, and are particularly described in the plan thereunto annexed, and painted with red colour; AND ALL which said Middle Temple Lane, Middle Temple, Hall, Courts, &c. thereby Bargained and Sold unto said Sir Thomas Clarke and others (except the Ways, &c. for the members of the Inner Temple, and are particularly described in the plan thereunto annexed and painted green colour; AND the Master's House and Garden, and other the premises are particularly described in the plan thereunto annexed and painted yellow: PROVISO, and it is agreed and declared between all the parties that it should be lawful for the Inner Temple at all times to keep watch and ward at and under their said Gate called the Inner Temple Gate, at the upper end of Inner Temple Lane, opening into Fleet Street, and to lock up and keep and order the same, and all other said Gates of said Inner Temple, as heretofore have been used: AND LIKEWISE, that it shall be lawful for the Middle Temple at all times to keep watch and ward at and under their said Gate called the Middle Temple Gate, at the end of Middle Temple Lane, leading into Fleet Street, and to lock up and keep all other Gates of said Middle Temple as heretofore have been used; AND ALSO that said Bridge and Causeway leading into the River Thames shall be repaired as follows: the Eastern side thereof, with the Stairs on that side, by the Inner Temple; and the Western side thereof, with the Stairs on that side, by the Middle Temple; and the Middle Stairs, with the whole area or surface of said Bridge and Causeway, by both Societies equally; AND it was agreed and declared between all said parties, that the Inner Temple shall, at their own charge and expense, pave and repair said Inner Temple Lane, and that the Middle Temple shall, at their own charge and expense, pave and repair said Middle Temple Lane; AND said Society of the Inner Temple shall for ever hereafter pay to the Middle Temple yearly the sum of six pounds; and if it should happen that said six pounds, or any part, be unpaid by the space of forty days, it should be lawful for the Middle Temple to shut and lock up said Middle Temple Great Gate, next Fleet Street aforesaid, against the Members of the Inner Temple, and to prevent them from passing and repassing until said sum of six pounds, or any part thereof, should be fully satisfied; AND ALSO said two Societies concert with each other in repairing the ground and premises held in common as aforesaid, and the charges and expenses of all repairs shall be borne equally between them (except the pavement of broad or flag stones leading from Middle Temple Cloysters to Lamb Building aforesaid, and before the front of same building, which are to be repaired by the Middle Temple); AND that each of said Societies shall for ever have and enjoy the use and benefit of Sewers, Drains, and Watercourses belonging to such Society respectively, with liberty to open, cleanse, and amend the same from time to time, and to break up any ground or pavement necessary for the doing thereof, the same Society making good the ground and pavements opened or broken up at their own sole expense; AND that neither of said Societies shall vary hereafter by raising or advancing any of their respective Buildings allotted them respectively, or by any new Buildings hereafter to be erected by either Society, or do any act or acts to the obstruction of the light coming into any of the Buildings of the other of them or of the light into any part of the Church, or to the stopping or obstructing of any Sewers, Drains, or Watercourses belonging to the other Society; nor shall either of said Societies do any damage, prejudice, or annoyance to the other of them; AND it is declared that the Inner Temple shall not be liable to the repairs of any of the Gates of the Middle Temple; nor shall the Middle Temple be liable to the repairs of any of the Gates of the Inner Temple; AND LASTLY, that the rent of five shillings, which had been demanded and taken by the Middle Temple for or in respect of a Vault made before the Shop adjoining to the South side of said church and belonging to the Inner Temple, in the occupation of William Crawford, shall not for the future be taken, but the same is hereby for the future released, determined, and disclaimed.

Duly Executed and Attested.

Forms, &c. handed in by Mr. Geo. Bryant—*cont.*

PAPERS and FORMS handed in by Mr. George Bryant, Sub-Treasurer of the Honourable Society of the Inner Temple, and referred to in his Evidence before Her Majesty's Commissioners on the 13th June, 1854.

No. 1.

	£	s.	d.
Expense of Admission-	29	3	2
Entrance into Commons	6	3	3
	35	6	5
Fee for Attendance at Lectures -	5	5	0
	£40	11	5
Deduct—			
Stamp Duty 25 1 3			
Fee paid to Account of Council of Legal Education - 5 5 0			
	30	6	3
Fee to the Society -	£10	5	2

Mr. Bryant
Admit

Treasurer.

I, of
aged the son of
of in the County
Do hereby declare that I am desirous of being admitted a Member of the Honourable Society of the Inner Temple for the purpose of keeping Terms for the Bar; and that I will not either directly or indirectly apply for or take out any Certificate to practise, directly or indirectly, as a Special Pleader, or Conveyancer, or Draftsman in Equity, without the special permission of the Masters of the Bench of the said Society.

And I do hereby further declare that I am not an Attorney-at-Law, Solicitor, a Writer to the Signet, a Writer of the Scotch Courts, a Proctor, a Notary Public, a Clerk in Chancery, a Parliamentary Agent, an Agent in any Court Original or Appellate, a Clerk to any Justice of the Peace; nor do I act, directly or indirectly, in any such capacity, or in the capacity of Clerk of or to any of the persons above described, or as Clerk of or to any Officer in any Court of Law or Equity.

Dated this day of

(*Signature*)

We, the undersigned, do hereby certify that we believe the above-named to be a gentleman of respectability, and a proper person to be admitted a Member of the said Society.

a Barrister of
a Barrister of

No. 2.

Students.
185 Easter -
Trinity -
Roll -
Pensions -
Preachers -

£

Gowns -
Hats -

Received day of
185 for the use of the Honourable Society of the Inner Temple.

Collector.

No. 3.

Bar.
18 Easter -
Trinity -
Roll -

£

Gowns - -
Hats - -

£

Received day of
184 for the use of the Honourable Society of the Inner Temple.

Collector.

No. 4.

Bench.
18 Easter - -
Trinity - -
Roll - - -
Pensions - -
Preachers - -

£

Received day of 18
for the use of the Honourable Society of the Inner Temple.

Collector.

No. 5.

BILL delivered to each Gentleman on Call to the Bar.

	£	s.	d.
Fee to the House on Call - -	32	9	6
Stamp Duty - - - -	50	2	6
	£82	12	0

Received 185 by me, for the use of the Honourable Society of the Inner Temple

Sub-Treasurer.

Robert Baynes Armstrong, Esq., Treasurer, 1852.

An Account of the Income and Expenditure of the Honourable Society of the Inner Temple (except for new Buildings) from the 31st December 1851 (exclusive) to the 30th Day of June 1852 (inclusive).

Income.

Date.	Heads of Income.	£	s.	d.
	Admittances into the House	144	0	0
	Composition Money in lieu of Keeping Vacations	185	0	0
	Calls to the Bench	520	0	0
	Calls to the Bar	1,513	0	0
	Barristers Dues, not having Chambers	67	2	3
	Commons, Pensions, and Preachers' Duties	1,270	5	5
	Fines and Admissions into Chambers	14	0	0
	Officers' Fees received from Gentlemen upon Admission, Entrance into Commons, and Call to the Bar, and the Roll Money received by the Collector	343	14	9
	Income from various sources	£ 4,057	2	5
	Rents received	7,795	11	1
	Total Income	£ 11,852	13	6
	Total Payments	8,974	0	3
June 30.	Balance in favour of Income half a year to this day	£ 2,878	13	3

Expenditure.

Heads of Expenditure.	Salaries and Allowances.	Incidental Expenditures.		Pensions.	Total.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Church	509 12 0				
Disbursements	- - -	- - -	53 4 10	- - -	562 16 10
Library	205 2 0				
Books	- - -	319 7 3			
Disbursements	- - -	82 13 0			
			402 0 3	- - -	607 2 3
Parliament Chamber, Hall, Kitchen, &c.	1,022 10 6				
Commons	- - -	821 5 1			
Wine	- - -	572 18 10			
Beer	- - -	97 1 0			
Tea, Coffee, &c.	- - -	47 3 0			
Coals, Charcoal, Wood	- - -	48 1 6			
Oil and Candles	- - -	53 8 1			
Disbursements	- - -	203 8 0			
			1,843 5 6	- - -	2,865 16 0
Treasurer's Office, Architect, Garden, Lighting, &c.	1,133 18 0				
Watching and Warding	- - -	329 8 0			
Gas Light	- - -	269 12 9			
Taxes and Water Rent	- - -	338 10 7			
Disbursements	- - -	338 17 5			
			1,276 8 9	- - -	2,410 6 9
Pensions and Gratuities:—					
Pensions	- - -	- - -	- - -	222 13 0	
Gratuities	- - -	- - -	63 0 0	- - -	285 13 0
Miscellaneous Payments	- - -	- - -	56 10 0	- - -	56 10 0
Total Expenditure on General Account	£ 2,871 2 6	- - -	3,694 9 4	222 13 0	6,788 4 10
Rent Account:—					
General Repairs	- - -	- - -	- - -	- - -	1,793 1 11
Annuities	- - -	- - -	- - -	- - -	392 13 6
	£ 2,871 2 6	- - -	3,694 9 4	222 13 0	8,974 0 3
Paid out of the General Account					£ 6,788 4 10
Ditto Rent Account					2,185 15 5
					£ 8,974 0 3

Accounts, &c. handed in by Mr. Geo. Bryant —*cont.*

Accounts, &c. handed in by Mr. Geo. Bryant. —*cont.*

Robert Baynes Armstrong, Esq., Treasurer, 1852.

Summary of the General and Rent Accounts, showing the Money received and paid by the Bankers during the Half Year ending 30th June 1852.

Receipts.

		£	s.	d.
1852. June 30.	Mr. Bryant paid Bankers the Income on the General Account	4,057	2	5
	William Hurlstone, the Collector, paid Bankers the Amount of Rents collected by him during this half year	7,795	11	1
	Six months Dividend on 931*l.* 5*s.* 2*d.* Bank Stock (Domus fund)	37	5	0
		£ 11,889	18	6
	Deposits made by Students	800	0	0
		£ 12,689	18	6
	Balance at the Bankers on last Account :—			
	General Account £ 387 1 5			
	Rent Account 2,906 16 8			
		3,293	18	1
	Total Receipts	£ 15,983	16	7
	Total Payments	12,198	4	7
June 30	Balance at the Bankers this day	£ 3,785	12	0
	General Account £ 906 9 8			
	Rent Account 2,879 2 4			
	£ 3,785 12 0			

Expenditure.

		£	s.	d.
	General Expenditure by Checks	5,987	14	2
	Paid on the Petty Cash Account	850	0	0
		£ 6,837	14	2
	Rent Account:—			
	General Repairs £ 1,793 1 11			
	Annuities 392 13 6			
		2,185	15	5
		£ 9,023	9	7
June 30.	Returned Bankers, 1,500*l.*, and paid Six Months Interest on 9,000*l.* borrowed pursuant to the Orders of the House of 28th April 1848, and 7th March 1851, less the Property Tax	1,674	15	0
		£ 10,698	4	7
	Deposits returned to Students	1,500	0	0
		£ 12,198	4	7

Petty Cash Account.

Mr. George Bryant, the Sub-Treasurer, in Account with the Honourable Society of the Inner Temple on the Petty Cash Account, from the 31st December 1851 (exclusive) to the 30th June 1852 (inclusive).

		£	s.	d.
	Received of the Treasurer by Check on the following days :—			
1852.	January 8th £ 100 0 0			
	„ 31st 100 0 0			
	February 23rd 100 0 0			
	March 22nd 100 0 0			
	April 17th 100 0 0			
	May 11th 200 0 0			
	June 24th 150 0 0			
		850	0	0
	Paid the Executors of Mr. Martin, the late Sub-Treasurer, the Balance due to him on the last account £ 21 6 8			
June 30.	Paid as per Account from 31st December 1851, to this day 800 10 8			
		821	17	4
	Balance due to the Society carried to the next account	£ 28	2	8

Robert Baynes Armstrong, Esq., Treasurer, 1852.

An Account of the Income and Expenditure of the Honourable Society of the Inner Temple (except for new Buildings), from the 30th June (exclusive) to the 31st December 1852 (inclusive).

Income.

Heads of Income.	£	s.	d.
Admittances into the House	76	13	4
Composition Money, in lieu of Keeping Vacations	115	0	0
Calls to the Bar	836	10	0
Barristers Dues, not having Chambers	622	4	1
Commons, Pensions, and Preachers' Duties	824	3	2
Fines and Admissions into Chambers	4	0	0
Officer's Fees received from Gentlemen upon Admission, Entrance into Commons, Call to the Bar, and the Roll Money received by the Collector	238	15	0
Income from various sources £	2,717	5	7
Rents received	8,031	16	9
Total Income £	10,749	2	4
Total Expenditure	9,885	7	11
Balance in favour of Income, half a year to 31st December 1852 £	863	14	5

Expenditure.

Heads of Expenditure.	Salaries and Allowances. £ s. d.	Incidental Expenditure. £ s. d.	£ s. d.	Pensions. £ s. d.	Total. £ s. d.
Church	328 4 8				
Disbursements	- -	-	36 17 2	- -	365 1 10
Library	186 19 1				
Books	- -	-	278 8 5	- -	465 7 6
Parliament Chamber, Hall, Kitchen, &c.	637 19 7				
Commons	-	879 8 1			
Wine	-	137 17 9			
Beer	-	161 13 2			
Tea, Coffee, &c.	-	14 15 0			
Coals, Charcoal, and Wood	-	12 8 4			
Linen	-	36 1 0			
Oil and Candles	-	29 1 3			
Disbursements	-	189 11 2			
			1,460 15 9	- -	2,098 5 4
Treasurer's Office, Architect, Garden, Lighting, &c.	950 8 8				
Watching and Warding	-	329 7 6			
Gaslight	-	271 16 2			
Taxes and Water Rent	-	428 12 3			
Disbursements	-	600 11 1			
			1,630 7 0	- -	2,580 15 8
Pensions and Gratuities:—					
Pensions	-	-	-	367 13 6	
Gratuities	-	-	30 0 0	- -	397 13 6
Miscellaneous Payments	-	-	282 11 8	- -	282 11 8
Total Expenditure on the General Account £	2,103 2 0	- -	3,719 0 0	367 13 6	6,189 15 6
Rent Account:—					
General Repairs	-	-	-	- -	3,302 18 11
Annuities	-	-	-	- -	392 13 6
Total Expenditure £	2,103 2 0	- -	3,719 0 0	367 13 6	9,885 7 11

Paid out of the General Account	£	6,189 15 6
Paid out of the Rent Account		3,695 12 5
	£	9,885 7 11

Accounts, &c. handed in by Mr. Geo. Bryant —*cont.*

Accounts, &c. handed in by Mr. Geo. Bryant —*cont.*

Robert Baynes Armstrong, Esq., Treasurer, 1852.

Summary of the General and Rent Accounts, showing the Money received and paid by the Bankers during the Half Year ending 31st December 1852.

Receipts.

1852.		£	s.	d.
Dec. 31.	Mr. Bryant paid Bankers the Income on the General Account	2,717	5	7
	William Hurlstone (the Collector) paid Bankers the amount of Rents collected by him during this half year	8,031	16	9
Oct. 11.	Six months' Dividend on 931*l.* 5*s.* 2*d.* Bank Stock (Domus fund)	32	11	10
		£10,781	14	2
	Deposits made by Students	900	0	0
		£11,681	14	2
	Balance at the Bankers on the last Account :—			
	General Account £906 9 8			
	Rent Account 2,879 2 4			
		3,785	12	0
	Total Receipts	£15,467	6	2
	Total Payments	13,481	14	6
Dec. 31.	Balance at the Bankers this day, viz. :—	£1,985	11	8
	Rent Account £2,102 6 0			
	General Account overdrawn to be deducted 116 14 4			
	£1,985 11 8			

Expenditure.

	General Expenditure by Checks	5,440	9	7
	Paid on account of Petty Cash	700	0	0
		6,140	9	7
	Rent Account:—			
	General Repairs £3,302 18 11			
	Annuities 392 13 6			
		3,695	12	5
		£9,836	2	0
	Money returned to Bankers :—			
Dec. 31.	Returned Bankers 1,500*l.*, and paid Six Months' Interest on 7,500*l.* at 4 per cent. (less the Property Tax), borrowed pursuant to the Orders of the House of 28th April 1848 and 7th March 1851	1,645	12	6
	Purchase of Bank Stock (Domus fund):—			
	To 445*l.* 18*s.* 3*d.*, Bank Stock, invested annually, pursuant to Bench Table Order of 25th January 1850, in the names of the Honourable Sir George Rose, Barnes Peacock, and Kenneth Macaulay, Esquires, as a Domus fund, at £215½ per cent. £998 16 10			
	Transfer and Commission 1 3 2			
		1,000	0	0
		£12,481	14	6
	Deposits returned to Students	1,000	0	0
	Total Payments	£13,481	14	6

Petty Cash Account.

Mr. George Bryant, the Sub-Treasurer, in account with the Honourable Society of the Inner Temple on the Petty Cash Account, from 30th June (exclusive) to the 31st December 1852 (inclusive), being the last Half Year of Mr. Armstrong's Treasurership.

1852.		£	s.	d.
Dec. 31.	Paid as per Account from 30th June to this day	749	5	11
	Balance due to the Society on the last Account, viz., 30th June 1852 £28 2 8			
	Received of the Treasurer by Check on the following days, viz.—July 7th 200 0 0			
	„ 29th 300 0 0			
	Nov. 13th 100 0 0			
	Dec. 6th 100 0 0			
		728	2	8
	Balance due to Mr. Bryant, 31st Dec. 1852	£21	3	3

Accounts, &c. handed in by Mr. Geo. Bryant *cont.*—

The Right Honourable Sir DAVID DUNDAS, Treasurer, 1853.

An ACCOUNT of Deposits made by Students in order to be called to the Bar, and of Deposits returned to Students on their being called to the Bar, Quitting the Society, and in the event of Death, to their Personal Representatives.

Deposits made.

		£	s.	d.	£	s.	d.
1852.							
Dec. 31.	Deposits in hand to this day				8,500	0	0
1853.							
Feb. 15.	Bocquee, Paul Stanislas	100	0	0			
April 16.	Cole, James Edwin	100	0	0			
„ 30.	Hodgkinson, Francis	100	0	0			
May 3.	Templer, Geo. Denis O'Kelly	100	0	0			
„ 27.	Musgrave, Anthony	100	0	0			
June 6.	Garraway, Robt. John	100	0	0			
					600	0	0
					9,100	0	0
	Deposits returned as on the other side				1,800	0	0
June 30.	Deposits in hand to this day				£ 7,300	0	0

Deposits returned.

		£	s.	d.
1853.				
Jan. 14.	Chambers, Henry Smyth	100	0	0
„ 24.	Petre, Edward Henry	100	0	0
„ 27.	Browning, Wm. Ernst	100	0	0
„ „	Penruddocke, Charles	100	0	0
„ „	Pearson, Wm.	100	0	0
„ „	Reed, John Lindsay	100	0	0
„ „	Simpson, Nathaniel	100	0	0
April 27.	Roper, Frank	100	0	0
May 2.	Foster, James Loxham	100	0	0
„ „	Burke, Edmund	100	0	0
„ „	Curnin, John	100	0	0
„ 4.	Fowler, Robinson	100	0	0
„ 31.	Wright, John	100	0	0
June 1.	Hennell, James Edward	100	0	0
„ 7.	Taylor, John Edward	100	0	0
„ „	Wood, Arthur John	100	0	0
„ 8.	Dalby, Alfred	100	0	0
„ 24.	Agnew, Stair Andrew	100	0	0
		£ 1,800	0	0

Accounts, &c. handed in by Mr. Geo. Bryant *cont.*—

The Right Honourable Sir David Dundas, Treasurer, 1853.

An Account of the Income and Expenditure of the Honourable Society of the Inner Temple (except for new Buildings), from the 31st December 1852 (exclusive) to the 30th June 1853 (inclusive).

Income.

Heads of Income.	£	s.	d.
Admittances into the House	138	13	4
Composition Money in lieu of Keeping Vacations	205	0	0
Call to the Bench	310	0	0
Calls to the Bar	1,680	0	0
Barristers Dues, not having Chambers	183	18	7
Commons, Pensions, and Preachers' Duties	1,355	13	2
Fines and Admissions into Chambers	54	10	0
Officers' Fees received from Gentlemen upon Admission, Entrance into Commons, and Calls to the Bar, and Roll Money received by the Collector	384	3	0
Miscellaneous Receipts	10	10	0
Income from various sources	4,322	8	1
Rents received	8,411	6	5
Total Income	12,733	14	6
Total Expenditure	10,336	2	10
Balance in favour of Income, half a year to 30th June 1853	2,397	11	8

Expenditure.

Heads of Expenditure.	Salaries and Allowances. £	s.	d.	Incidental Expenses. £	s.	d.	£	s.	d.	Pensions. £	s.	d.	Total. £	s.	d.
Church	336	11	8												
Disbursements	-	-		-	-		25	12	1	-	-		362	3	9
Library	185	2	0												
Books	-	-		-	-		291	0	1	-	-		476	2	1
Parliament Chamber, Hall, Kitchen, &c.	958	0	6												
Commons	-	-		697	17	6									
Wine	-	-		895	7	10									
Beer	-	-		70	0	5									
Tea, Coffee, &c.	-	-		29	17	0									
Coals, Charcoal, Wood	-	-		6	14	0									
Linen	-	-		35	0	0									
Oil and Candles	-	-		28	7	0									
Disbursements	-	-		385	17	7									
							2,149		4	-	-		3,107	1	10
Treasurer's Office, Architect, Garden, Lighting, &c.	995	15	0												
Watching and Warding	-	-		329	11	6									
Gaslight	-	-		284	19	7									
Taxes and Water Rate	-	-		366	3	7									
Disbursements	-	-		219	14	1									
							1,200	8	9	-	-		2,196	3	9
Pensions and Gratuities:—															
Pensions	-	-		-	-		-	-		351	17	6			
Gratuities	-	-		-	-		65	5	0	-	-		417	2	6
Miscellaneous Payments	-	-		-	-		637	10	2	-	-		637	10	2
Total Expenditure on the General Account	2,475	9	2	-	-		4,368	17	5	351	17	6	7,196	4	1
Rent Account:—															
General Repairs	-	-		-	-		-	-		-	-		2,747	5	3
Annuities	-	-		-	-		-	-		-	-		392	13	6
£	2,475	9	2	-	-		4,368	17	5	351	17	6	10,336	2	10

Paid out of the General Account	£	7,196	4	1
Ditto Rent Account	-	3,139	18	9
	£	10,336	2	10

Accounts, &c. handed in by Mr. Geo. Bryant —*cont.*

The Right Honourable Sir David Dundas, Treasurer, 1853.

SUMMARY of the General and Rent Accounts, showing the Money received and paid by the Bankers during the Half Year ending 30th June 1853.

1853.	*Receipts.*	£	s.	d.
June 30.	Mr. Bryant paid Bankers the Income on the General Account -	4,322	8	1
	William Hurlstone (the Collector) paid the Bankers the amount of Rents collected by him during this half year - -	8,411	6	5
		£ 12,733	14	6
	Deposits received from Students -	600	0	0
		£ 13,333	14	6
Feb. 18.	To sale of 1,377*l.* 3*s.* 5*d.* Bank Stock (Domus fund) at 227 per cent. - - £ 3,126 3 6			
	Stamp and Bankers Commission - 2 6 6			
		3,123	17	0
		£ 16,457	11	6
March 24.	Borrowed of the Bankers by Treasurer's Letter, dated 18th March, and placed to the credit of the General Account - - -	2,000	0	0
		£ 18,457	11	6
	Balance at the Bankers on the last Account, viz., 31st December 1852:—			
	Rent Account £ 2,102 6 0			
	General Account Overdrawn - 116 14 4			
		1,985	11	8
	Total Receipts - -	20,443	3	2
	Total Payments -	18,701	6	7
		£ 1,741	16	7
June 30.	Balance at the Bankers this day, viz.:—			
	General Account £826 1 6			
	Rent Account - 915 15 1			
	£ 1,741 16 7			

	Expenditure.	£	s.	d.
	General Expenditure by Checks	6,479	12	3
	Paid on Account of Petty Cash -	700	0	0
		£ 7,179	12	3
	Rent Account:—			
	General Repairs £ 2,747 5 3			
	Annuities - 392 13 6			
		3,139	18	9
	Money returned to Bankers, and Interest - - -			
Feb. 18.	Returned Bankers 3,000*l.*, and paid 49 days' Interest to this day at 4 per cent., less the Property Tax, on 6,000*l.* borrowed pursuant to the Orders of the House of the 20th April 1848, and 7th March 1851 - - - - -	3,015	12	10
April 29.	Returned Bankers 2,000*l.*, borrowed on Treasurer's Letters, dated 18th March 1851, and 36 days' Interest at 4 per cent.	2,007	17	9
June 30.	Returned Bankers 1,500*l.*, and paid 6 months Interest at 4 per cent., less the Property Tax, pursuant to the Orders of the House of 28th April 1848, and 7th March 1851 - - -	1,558	5	0
		£ 16,901	6	7
	Deposits returned to Students -	1,800	0	0
	Total Payments - - -	£ 18,701	6	7

Petty Cash Account.

Mr. George Bryant, Sub-Treasurer, in account with the Honourable Society of the Inner Temple, on the Petty Cash Account, from 31st December 1852 (exclusive) to the 30th June 1853 (inclusive), being the first Half Year of Sir David Dundas's Treasurership.

		£	s.	d.
	Balance due to Mr. Bryant on the last Account, viz., 31st December 1852 - -	21	3	3
June 30.	Paid as per Account from 31st December 1852 to this day -	716	11	10
		£ 737	15	1

		£	s.	d.	£	s.	d.
	Received of the Treasurer by Cheque on the following days, viz., Jan. 1 -	100	0	0			
	January 27 -	100	0	0			
	February 14 -	200	0	0			
	March 24 -	100	0	0			
	April 29 -	200	0	0			
					700	0	0
June 30.	Balance due to Mr. Bryant this day - - -				£ 37	15	1

The Right Honourable Sir David Dundas, Treasurer, 1854.

An Account of Deposits made by Students in order to be called to the Bar, and of Deposits returned to Students on their being called to the Bar, Quitting the Society, and in the event of their Death to their Personal Representatives.

1853.	*Deposits made.*	£	s.	d.
June 30.	Deposits in hand to this day -	7,300	0	0
Oct. 25.	Bazire, Eugene - £ 100 0 0			
Nov. 3.	West, Algernon Edward - - 100 0 0			
		200	0	0
		£ 7,500	0	0
	Deposits returned as on the other side - - -	700	0	0
1853.				
Dec. 31.	Deposits in hand to this day -	£ 6,800	0	0

1853.	*Deposits returned.*	£	s.	d.
Nov. 8.	Jerrold, William Blanchard -	100	0	0
„ 15.	Tookie, John Joseph - -	100	0	0
„ 18.	Vane, Henry Morgan -	100	0	0
„ „	Lewis, George Charles Degen -	100	0	0
„ „	Blackmore, Samuel Haywood -	100	0	0
„ „	Hutton, Stamford - - -	100	0	0
„ „	Holden, Henry - - -	100	0	0
		£ 700	0	0

The Right Honourable Sir David Dundas, Treasurer, 1853.

An Account of the Income and Expenditure of the Honourable Society of the Inner Temple (except for new Buildings), from the 30th June 1853 (exclusive) to the 31st December 1853 (inclusive).

Income.

Heads of Income.	Amount. £ s. d.
Admittances into the House	57 6 8
Composition Money in lieu of Keeping Vacations	80 0 0
Calls to the Bar	392 0 0
Barristers Dues, not having Chambers	68 16 8
Commons, Pensions, and Preachers' Duties	787 2 3
Fines and Admissions into Chambers	4 0 0
Officers Fees received from Gentlemen upon Admission, Entrance into Commons, and Call to the Bar, and Roll Money received by the Collector	160 1 6
Income from various sources	£ 1,549 7 1
Re received	8,082 10 3
Total Income	£ 9,631 17 4
Total Expenditure	8,545 14 10
Balance in favour of Income, half a year to 31st December 1853	£ 1,086 2 6

Expenditure.

Heads of Expenditure.	Salaries and Allowances. £ s. d.	Incidental Expenditure. £ s. d.	£ s. d.	Pensions. £ d.	Total. £ s. d.
Church	331 8 8				
Disbursements	- -	- -	44 14 0	- -	376 2 8
Library	186 9 0				
Books	- -	- -	388 8 9	- -	574 17 4
Parliament Chamber, Hall, Kitchen, &c.	639 6 0				
Commons	- -	824 7 9			
Wine	- -	108 10 0			
Beer	- -	18 16 7			
Tea, Coffee, &c.	- -	25 19 0			
Coals, Charcoal, and Wood	- -	80 12 11			
Linen	- -	35 0 0			
Oil and Candles	- -	27 16 3			
Disbursements	- -	94 14 3			
			1,215 16 9	- -	1,855 2 9
Treasurer's Office, Architect, Garden, Lighting, &c.	935 19 9				
Watching and Warding	- -	346 13 6			
Gaslight	- -	275 9 2			
Taxes and Water Rent	- -	417 7 0			
Disbursements	- -	212 19 2			
			1,252 8 10	- -	2,188 8 7
Pensions and Gratuities:—					
Pensions	- -	- -	- -	368 11 0	388 11 0
Gratuities	- -	- -	20 0 0	- -	
Miscellaneous Payments	- -	- -	247 0 0	- -	247 0 0
Total Expenditure on the General Account £	2,093 3 5	- -	3,168 8 4	368 11 0	5,630 2 9
Rent Account:—					
General Repairs	- -	- -	- -	- -	2,522 18 7
Annuities	- -	- -	- -	- -	392 13 6
Total Expenditure £	2,093 3 5	- -	3,168 8 4	368 11 0	8,545 14 10
Paid out of the General Account					£5,630 2 9
Ditto of the Rent Account					2,915 12 1
				£	8,545 14 10

Accounts, &c. handed in by Mr. Geo. Bryant —*cont.*

The Right Honourable Sir David Dundas, Treasurer, 1853.

Summary of the General and Rent Accounts, showing the Money received and paid by the Bankers during the Half-year ending 31st December 1853.

Receipts.

1853.		£	s.	d.
Dec. 31.	Mr. Bryant paid Bankers the Income on the General Account	1,549	7	1
	William Hurlstone, the Collector, paid the Bankers the amount of Rents collected by him during this half-year -	8,082	10	3
		£ 9,631	17	4
	Deposits received from Students	200	0	0
		£ 9,831	17	4
	Balance at the Bankers on the last Account, viz. 30th June 1853 :			
	Rent Account £915 15 1			
	General Account 826 1 6			
		1,741	16	7
	Total Receipts -	£ 11,573	13	11
	Total Payments -	10,819	13	11
	Balance at the Bankers this day, viz. :—General Account - £ 697 14 2	£ 754	0	0
	Rent Account 56 5 10			
		£ 754	0	0

Expenditure.

1853.		£	s.	d.
	General Expenditure by Cheques	4,877	14	5
	Paid on Account of Petty Cash -	800	0	0
		£5,677	14	5
	Rent Account :—			
	General Repairs £2,522 18 7			
	Annuities - 392 13 6			
		2,915	12	1
	Money returned to Bankers, and Interest :—			
Dec. 13.	Returned Bankers 1,500*l.*, and paid 3 months and 74 days Interest at per cent. less the Property Tax, being the balance of monies borrowed pursuant to the Orders of the House of the 28th April 1848 and 7th March 1851 -	1,526	7	5
		£ 10,119	13	11
	Deposits returned to Students -	700	0	0
	Total Payments -	£ 10,819	13	11

Petty Cash Account.

Mr. George Bryant, the Sub-Treasurer, in account with the Honourable Society of the Inner Temple on the Petty Cash Account, from 30th June (exclusive) to the 31st December 1853 (inclusive), being the last Half-year of Sir David Dundas's Treasurership.

Receipts.

1853.		£	s.	d.	£	s.	d.
	Received of the Treasurer by Cheque on the following days :—						
	July 6 - -	400	0	0			
	September 30 -	100	0	0			
	October 22 - -	100	0	0			
	November 18 -	100	0	0			
	December 24 -	100	0	0			
					800	0	0

Expenditure.

1853.		£	s.	d.	£	s.	d.
Dec. 31.	Balance due to Mr. Bryant on the last Account, viz., 30th June 1853 - - -	37	15	1			
	Paid as per Account from 30th June to this day	752	8	4			
					790	3	5
	Balance due to the Society to 31st December 1853, carried to next Account - - -				£ 9	16	7

Paper received from Mr. Bryant on 20th February 1855.

Inner Temple.—Amount paid to the Cook for Dinners in Hall during 1853 and 1854 (exclusive of Wine, Beer, Lights, Writing, Servants, &c.)

1853.	£	s.	d.
Hilary Term - - - - - -	311	18	9
Easter Term - - - -	349	2	6
Trinity Term - - - -	375	8	7
Michaelmas Term - - -	332	3	6
	1,368	13	4
Bench Dinners out of Term - -	153	11	11
	1,522	5	3
Allowance for Fuel, &c. - -	130	0	0
	£ 1,652	5	3

1854.	£	s.	d.
Hilary Term - - -	292	16	3
Easter Term - - - -	336	5	3
Trinity Term - - - -	355	3	10
Michaelmas Term - - -	324	2	9
	1,308	8	1
Bench Dinners out of Term - - -	100	0	0
	1,408	8	1
Allowance for Fuel, &c. - -	130	0	0
	£ 1,538	8	1

William Whateley, Esq., Treasurer, 1854.

An Account of the Income and Expenditure of the Honourable Society of the Inner Temple (except for new Buildings), from the 31st December 1853 (exclusive) to the 30th June 1854 (inclusive).

Income.

Heads of Income.	£	s.	d.
Admittances into the House	146	0	0
Composition Money in lieu of Keeping Vacations	215	0	0
Calls to the Bar	1,400	0	0
Barristers' Dues, not having Chambers	85	0	5
Commons, Pensions, and Preacher's Duties	1,176	19	0
Officers' Fees received from Gentlemen upon Admissions, Entrance into Commons, and Call to the Bar, and Roll Money received by the Collector	334	18	10
Income from various sources £	3,357	18	3
Rents received	7,789	17	2
Total Income £	11,147	15	5
Total Expenditure	8,582	7	2
£	2,565	8	3

Expenditure.

Heads of Expenditure.	Salaries and Allowances. £	s.	d.	Incidental Expenditure. £	s.	d.	£	s.	d.	Pensions. £	s.	d.	Total. £	s.	d.
Church	333	5	2												
Disbursements	-		-	-		-	47	3	2	-		-	380	8	4
Library	183	15	0												
Books	-		-	-		-	342	2	8	-		-	525	17	8
Parliament Chamber, Hall, Kitchen, &c.	883	17	6												
Commons	-		-	676	14	6									
Wine	-		-	396	9	10									
Beer	-		-	213	1	7									
Tea, Coffee, &c.	-		-	36	12	0									
Coals, Charcoal, and Wood	-		-	111	5	0									
Linen	-		-	35	0	0									
Oil and Candles	-		-	36	3	7									
Disbursements	-		-	158	0	1									
							1,663	6	7	-		-	2,547	4	1
Treasurer's Office, Surveyor, Garden, Lighting, &c.	993	11	0												
Watching and Warding	-		-	337	0	6									
Gas Light	-		-	284	16	0									
Taxes and Water Rent	-		-	367	8	6									
Insurance	-		-	361	8	0									
Disbursements	-		-	283	13	1									
							1,634	6	1	-		-	2,627	17	1
Pensions and Gratuities :—															
Pensions	-		-	-		-	-		-	359	17	0			
Gratuities	-		-	-		-	55	5	0	-		-	415	2	0
Miscellaneous Payments	-		-	-		-	284	17	0	-		-	284	17	0
Total Expenditure on the General Account £	2,394	8	8	-		-	4,027	0	6	359	17	0	6,781	6	2
Rent Account :—															
General Repairs	-		-	-		-	-		-	-		-	1,433	7	6
Annuities	-		-	-		-	-		-	-		-	367	13	6
Total Expenditure £	2,394	8	8	-		-	4,027	0	6	359	17	0	8,582	7	2

	£	s.	d.
Paid out of the General Account	6,781	6	0
Paid out out of the Rent Account	1,801	1	0
£	8,582	7	2

Accounts, &c. handed in by Mr. Geo. Bryant —*cont.*

William Whateley, Esq., Treasurer, 1854.

Summary of the General and Rent Accounts, showing the Money received and paid by the Bankers during the Half-year ending 30th June 1854.

1854.		£	s.	d.
June 30.	Mr. Bryant paid Bankers the Income on the General Account	3,357	18	3
	William Hurlstone, the Collector, paid the Bankers the amount of Rents collected by him during this half-year	7,789	17	2
		£11,147	15	5
	Deposits received from Students	800	0	0
		£11,947	15	5
	Balance at the Bankers on the last Account, viz., 31st December 1853:			
	Rent Account £56 5 10			
	General Account 697 14 2	754	0	0
	Total Receipts	£12,701	15	5
	Total Payments	10,805	11	0
		£1,896	4	5
June 30.	Balance at the Bankers this day:			
	Rent Account £ 545 2 0			
	General Account 1,351 2 5			
	£1,896 4 5			
	General Expenditure by Cheques	6,004	10	0
	Paid on Account of Petty Cash	800	0	0
		£6,804	10	0
	Rent Account:			
	General Repairs £1,433 7 6			
	Annuities 367 13 6	1,801	1	0
		£8,605	11	0
	Deposits returned to Students	2,000	0	0
	Total Payments	£10,805	11	0

Petty Cash Account.

Mr. George Bryant, the Sub-Treasurer, in Account with the Honourable Society of the Inner Temple, on the Petty Cash Account from 31st December 1853 (exclusive) to the 30th June 1854 (inclusive), being the first half-year of Mr. Whateley's Treasurership.

		£	s.	d.
	Balance due to the Society on the last Account, viz., 31st Dec. 1853	9	16	7
	Received of the Treasurer by Cheque on the following days:			
	January 14 £100 0 0			
	„ 27 100 0 0			
	February 11 100 0 0			
	March 4 200 0 0			
	April 25 100 0 0			
	May 20 200 0 0	800	0	0
		809	16	7
	Paid as per Account	776	16	2
June 30.	Balance due to the Society this day	£33	0	5

William Whateley, Esquire, Treasurer, 1854.

An Account of the Income and Expenditure of the Honourable Society of the Inner Temple (except for new Buildings), from the 30th day of June 1854 (exclusive) to the 31st day of December 1854 (inclusive).

Income.

Heads of Income.	£	s.	d.
Admittances into the House	66	13	4
Composition Money in lieu of Keeping Vacations	100	0	0
Calls to the Bar	280	0	0
Calls to the Bench	830	0	0
Barristers' Dues, not having Chambers	671	7	5
Commons, Pensions, and Preacher's Duties	495	15	11
Officers' Fees received from Gentlemen upon Admission, Entrance into Commons and Call to the Bar, and Roll Money received by the Collector	140	0	10
Income from various sources	2,583	17	6
Rents received	7,437	3	1
Total Income £	10,021	0	7
Total Expenditure	7,362	13	8
£	2,658	6	11

Expenditure.

Heads of Expenditure.	Salaries and Allowances. £ s. d.	Incidental Expenditure. £ s. d.	Incidental Expenditure. £ s. d.	Pensions. £ s. d.	Total. £ s. d.
Church	330 3 8				
Disbursements	- - -	- - -	30 2 5	- - -	360 6 1
Library	186 9 0				
Books	- - -	- - -	257 7 2	- - -	443 16 2
Parliament Chamber, Hall, Kitchen, &c.	636 13 6				
Commons	- - -	731 13 7			
Beer	- - -	134 19 11			
Tea, Coffee, &c.	- - -	16 10 0			
Coals, Charcoal, and Wood	- - -	35 19 6			
Linen	- - -	35 0 0			
Oil and Candles	- - -	29 10 6			
Disbursements	- - -	80 9 1			
			1,064 2 7	- - -	1,700 16 1
Treasurer's Office, Surveyor, Garden, Lighting, &c.	939 12 6				
Watching and Warding	- - -	363 13 0			
Gaslight	- - -	275 12 0			
Taxes and Water Rent	- - -	401 2 3			
Disbursements	- - -	195 10 0			
			1,235 17 3	- - -	2,175 9 9
Pensions and Gratuities:					
Pensions	- - -	- - -	- - -	346 3 0	
Gratuities	- - -	- - -	20 0 0	- - -	3,663 3 0
Miscellaneous Payments	- - -	- - -	351 13 2	- - -	351 13 2
Total Expenditure, General Account £	2,092 18 8	- - -	2,959 2 7	346 3 0	5,398 4 3
Rent Account:					
General Repairs	- - -	- - -	- - -	- - -	1,621 15 11
Annuities	- - -	- - -	- - -	- - -	342 13 6
£	2,092 18 8	- - -	2,959 2 7	346 3 0	7,362 13 8

Paid out of the General Account	£ 5,398 4
Paid out of the Rent Account	1,964 9
	£ 7,362 13 8

Accounts, &c. handed in by Mr. Geo. Bryant —*cont.*

William Whateley, Esquire, Treasurer.

Summary of the General and Rent Accounts, showing the Money received and paid by the Bankers during the Half-year ending 31st December 1854.

Receipts.

1854.		£	s.	d.
Dec. 30.	Mr. Bryant paid Bankers the Income on the General Account -	2,583	17	6
	William Hurlstone, the Collector, paid the Bankers the amount of Rents collected by him during this half-year - - -	7,437	3	1
		£ 10,021	0	7
	Deposits received from Students - - - -	700	0	0
		£ 10,721	0	7
	Balance at the Bankers on the last Account, viz., 30th June 1854 :			
	Rent Account - - - - £ 545 2 0			
	General Account - - - 1,351 2 5			
		1,896	4	5
	Total Receipts - - - - - - -	£ 12,619	5	0
	Total Payments - - - - - - -	7,709	8	2
		£ 4,907	16	10
Dec. 30.	Balance at the Bankers this day :			
	Rent Account - - - - £ 3,517 15 8			
	General Account - - - - 1,390 1 2			
	£ 4,90 716 10			

Expenditure.

		£	s.	d.
	General Expenditure by Cheques - - - - -	4,544	18	9
	Paid on Account of Petty Cash - - - - -	900	0	0
		£ 5,444	18	9
	Rent Account :			
	General Repairs - - - - £ 1,621 15 11			
	Annuities - - - - - 342 13 6			
		1,964	9	5
		£ 7,409	8	2
	Deposits returned to Students - - - - -	300	0	0
	Total Payments - - - - - - -	£ 7,709	8	2

Petty Cash Account.

Mr. George Bryant, the Sub-Treasurer, in Account with the Honourable Society of the Inner Temple on the Petty Cash Account, from 30th June (exclusive) to 31st December 1854 (inclusive), being the last half-year of Mr. Whateley's Treasurership :—

		£	s.	d.
	Balance due to the Society on the last Account, viz., 30th June 1854	33	0	5
	Received of the Treasurer by Cheque, on the following days :—			
1854.	July 8 - - - - - - £ 500 0 0			
	October 23 - - - - - 100 0 0			
	November 27 - - - - - 150 0 0			
	December 23 - - - - 150 0 0			
		900	0	0
		933	0	5
	Paid as per Account - - - - - - -	853	5	6
Dec. 30.	Balance due to the Society on this Account carried to next Account -	£ 79	14	11

Accounts, &c. handed in by Mr. Geo. Bryant —*cont.*

ACCOUNTS of the Honourable Society of the INNER TEMPLE, rendered by Mr. Bryant, the Under Treasurer, and referred to in his Evidence before Her Majesty's Commissioners.

	Annual Expense. £	s.	d.
CHURCH.			
Master, Reader, Organist, Sexton, Organ Blower, Man to keep Marble Work in repair, and the choir - - - - - -	658	19	4
LIBRARY.			
Librarian, Assistant Librarian, and Library Man - - - -	370	4	0
OFFICE.			
Sub-Treasurer, 3 Clerks, 2 Messengers, Collector, Surveyor, Clerk of the Works, Dust Collector, and Cleaner of Water Closets - - -	1,432	3	9
KITCHEN.			
Two Cooks, an Assistant to the Cooks, 2 Dish Washers - - -	278		
GARDEN.			
Two Gardeners - - - - - -	124	12	0
WATCH.			
Superintendent, Inspector, and Head and Under Porters, 2 Warders, 2 Gatemen, and 8 Watchmen - - - - - -	826	10	0
HALL.			
Six Butlers, Pannier Man, Deputy Pannier Man, 15 Waiters, 2 Washpots, and Housekeeper - - - - - -	1,279	18	0
	£4,970	7	1

Number of Admissions to the Inner Temple.

STATEMENT of the Number of Admissions to the INNER TEMPLE, from the year 1849 to the year 1853, both inclusive :—

1849.		
General Admissions - - - - -	82	
Admissions by Certificate* from other Inns - -	11	
	—	93
1850.		
General Admissions - - - - -	91	
Admissions by Certificate - - - -	7	
	—	98
1851.		
General Admissions - - - - -	82	
Admissions by Certificate - - - -	8	
	—	90
1852.		
General Admissions - - - - -	59	
Admissions by Certificate - - -	12	
	—	71
1853.		
General Admissions - - - -	59	
Admissions by Certificate - - - - -	4	
	—	63

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* Having been entered at another Inn of Court, and paid the Stamp Duty of 25*l.*, are admitted here upon Certificate from the Inn to which the person belongs.

PAPER furnished by the INNER TEMPLE, 30th January 1855.

Return of Number of Benchers, Barristers, and Students dining in Hall of Inner Temple in 1854.

RETURN of the Number of Benchers, Barristers, and Students dining in the Inner Temple Hall during the four Terms in the year 1854, with the Total Number of each, and the Maximum of One Day's Attendance, in each Term.

Date.	No. of Benchers.	No. of Barristers.	No. of Students.	Total.
HILARY TERM, 1854.				
January 11	12	10	15	37
„ 12	6	11	17	34
„ 13	16	11	18	45
„ 14	3	10	24	37
„ 15	4	15	26	45
„ 16	9	25	45	79
„ 17	19	26	58	103
„ 18	7	22	53	82
„ 19	9	21	48	78
„ 20	20	17	49	86
„ 21	4	21	45	70
„ 22	2	13	27	42
„ 23	11	28	50	89
„ 24	13	28	60	101
„ 25	17	28	58	103
„ 26	13	25	72	110
„ 27	19	28	57	104
„ 28	4	24	48	76
„ 29	3	8	15	26
„ 30	9	14	21	44
„ 31	14	12	15	41
Total -	214	397	821	1,432
Max. of 1 day's attendance -	20	28	72	110
EASTER TERM, 1854.				
April 15 -	3	3	7	13
„ 16 -	1	4	10	15
„ 17 -	3	9	19	31
„ 18 -	6	8	19	33
„ 19 -	9	13	25	47
„ 20 -	5	13	31	49
„ 21 -	14	12	29	55
„ 22 -	2	14	28	44
„ 23 -	2	10	21	33
„ 24 -	6	24	41	71
„ 25 -	14	25	47	86
„ 26 -	3	13	30	46
„ 27 -	13	25	41	79
„ 28 -	14	24	40	78
„ 29 -	7	26	41	74
„ 30 -	3	13	17	33
May 1 -	15	28	41	84
„ 2 -	12	26	42	80
„ 3 -	12	26	38	76
„ 4 -	9	21	42	72
„ 5 -	13	18	43	74
„ 6 -	5	24	40	69
„ 7 -	3	7	12	22
„ 8 -	8	22	26	56
„ 9 -	15	19	29	63
„ 10 -	5	21	18	44
„ 11 -	7	22	13	42
„ 12 -	8	13	4	25
„ 13 -	3	17	5	25
Total -	220	500	799	1,519
Max. of 1 day's attendance -	15	28	47	86

Date.	No. of Benchers.	No. of Barristers.	No. of Students.	Total.
TRINITY TERM, 1854.				
May 25 -	6	11	12	29
„ 26 -	9	12	16	37
„ 27 -	4	12	20	36
„ 28 -	2	12	17	31
„ 29 -	6	21	33	60
„ 30 -	21	22	36	79
„ 31 -	5	20	22	47
June 1 -	8	20	29	57
„ 2 -	13	20	33	66
„ 3 -	2	16	42	60
„ 4 -	2	6	24	32
„ 5 -	7	21	40	68
„ 6 -	12	21	44	77
„ 7 -	22	25	40	87
„ 8 -	6	23	40	69
„ 9 -	17	20	37	74
„ 10 -	4	23	36	63
„ 11 -	3	7	20	30
„ 12 -	8	12	36	56
„ 13 -	16	14	44	74
„ 14 -	7	12	30	49
„ 15 -	8	12	23	43
„ 16 -	7	13	8	28
„ 17 -	3	12	7	22
Total -	198	387	689	1,274
Max. of 1 day's attendance -	22	25	44	87
MICHAELMAS TERM, 1854.				
November 2	11	12	18	41
„ 3	15	12	21	48
„ 4	4	9	21	34
„ 5	4	13	25	42
„ 6	8	23	52	83
„ 7	21	27	48	96
„ 8	3	22	59	84
„ 9	5	24	53	82
„ 10	20	25	47	92
„ 11	6	18	42	66
„ 12	2	15	19	36
„ 13	6	29	35	70
„ 14	15	25	39	79
„ 15	14	27	34	75
„ 16	4	29	42	75
„ 17	23	26	37	86
„ 18	3	25	31	59
„ 19	2	11	18	31
„ 20	7	22	32	61
„ 21	15	24	31	70
„ 22	4	23	34	61
„ 23	4	18	42	64
„ 24	20	22	36	78
„ 25	6	18	25	49
Total -	222	499	841	1,562
Max. of 1 day's attendance -	23	29	59	96

Answer to Circular from Middle Temple.

Middle Temple.

Answer to the Circular of Her Majesty's Commissioners from the Treasurer of the Hon. Society of the Middle Temple.

Middle Temple, May 26, 1854.

Sir,

In reply to your letter of the 12th inst., I beg to inform Her Majesty's Commissioners for inquiring into the Arrangements of the Inns of Court, &c. that the Society of the Middle Temple, in concurrence with the other Inns of Court, framed the Resolutions contained in the Printed Paper marked A, herewith enclosed, and since that time all the arrangements respecting Legal Education in this Society have been made under and in accordance with such resolutions, and the regulations of the Council of Legal Education, copies of which regulations (so far as I have them) are enclosed, marked B, C, D, E, F, G.

In pursuance of the General Resolutions and Orders marked A, this Society, after the careful examination of the merits of the Candidates, on the 14th of July 1852 appointed Dr. Maine Reader on Jurisprudence and Civil Law, who has continued to hold that Office ever since. The remuneration is fixed by the resolutions above referred to.

Dr. Maine was prevented by illness from delivering Public Lectures during Michaelmas Term 1852, but *Private or Class Lectures* were delivered during that Term, partly by himself and partly by Dr. Phillimore, in his place; with this exception,—Dr. Maine has delivered the prescribed Lectures, and continues so to do—the Public Lectures in the Middle Temple Hall, the Private in chambers provided by the Society for that purpose. I enclose a Return (marked H), which shows the number of Public and Private Lectures delivered by him, and the number of Students attending each Lecture up to the 31st July last. Another Paper (marked I), which shows the like up to Hilary Term last inclusive. I also enclose a Return (marked K), which shows the Expenditure and the Sums contributed by this Society up to 1st September 1853.

The above are the "Existing Arrangements for Promoting the Study of Laws and Jurisprudence" of this Inn.

It will be seen from the above that each Student is entitled to attend all the Public Lectures for as many years as he thinks fit upon the payment of Five Guineas, and all the Private Lectures upon the payment of Three Guineas annually. These Lectures are quite as many as (and probably more than) any Student can attend with profit to himself, and the result is, that as he may be called to the Bar in three years from his becoming a Member, the entire expense of his Legal Education is Fourteen Guineas. If to this is added the expense of keeping Term during that period (which in this Inn is now a fixed sum of One Guinea per Term, but for which the Student gets quite an equivalent), and One Pound per Annum dues, Seven Pounds and Ten Shillings Fees on admittance, Thirty-Five Pounds Fees on being called to the Bar, and Five Pounds to the Library, the entire amount of Expenses (independent of Stamps) of being called to the Bar, is Seventy-Seven Pounds and Sixteen Shillings.

Perhaps it may be acceptable to the Commissioners to be informed what was done by this Society as to Legal Education previous to 1852, and the result.

The ancient Readings had long entirely ceased, but a Deputy Reader had been appointed by the Society to deliver two Lectures or Readings in Easter and Michaelmas, and one in each of the other two Terms, in New Inn Hall (a House dependent on this Inn). Members of this Society alone were admissible, and attendance at two of such Lectures or Readings was required before a party could be called to the Bar, but such attendance could be commuted for a fine, for each Lecture, of between Two and Three Pounds. These Lectures, in truth, were nominal, the Lecturer merely reading to the Students who attended some short Case from the Printed Reports. In 1833 a Committee was appointed by Parliament to consider whether these Readings could not be rendered more efficient, and in consequence of their Report in June 1834 Mr. Jardine (the present Police Magistrate) was appointed Deputy Reader, with a Stipend of 30*l.* per Annum. He was only to deliver the same *number* of Lectures as heretofore, but they were no longer to be nominal; the subjects were to be selected by himself, but to be approved of by Parliament (the name given to the Meetings of this Bench).

Mr. Jardine continued to lecture upon the same terms until the alteration next mentioned in 1846 was made. The attendance varied considerably; but the average number attending each Lecture, as long as he continued Lecturer, exceeded 30. His Lectures were not confined to any particular branch of the Law.

In 1845 the subject of Legal Education was again brought before Parliament by the present Solicitor General, and an Order was made referring the matter to a Committee (which Order, with the Report of that Committee, and a subsequent Order thereon confirming such Report, will be found in the Printed Paper L).

The Order was forthwith communicated to the other Inns of Court, and frequent communication took place between them and this Society, by Committees and otherwise; but no common plan was definitively arranged until that before referred to (marked A) which was founded upon a Report of a Joint Committee of the four Inns of Court, appointed in 1851, herewith enclosed (marked M).

Immediately upon the Order of Parliament, January 16, 1846 (L, page 13), being made, steps were taken to carry it into effect. Mr. Jardine handsomely placed his resignation in the hands of the Bench. Candidates for the Office of Lecturer were invited, and at least

Answers to Circular, &c.—*cont.*

twenty (many with very high testimonials) offered themselves. From these, Mr. Long, a well-known Barrister of the Inner Temple, was selected, and was appointed Lecturer in April 1846, on the terms recommended by the Committee, with the Stipend of 1,000 Guineas, and a Guinea per course for each Student attending. Such Students were also exempt from Fine for not attending the Lectures at New Inn. Owing to the delay necessary to complete the arrangements, Mr. Jardine continued to read until the end of Trinity Term, 1846, and Mr. Long delivered his first Lecture in the Michaelmas Term following.

These Lectures, it will be observed, were open to the Members of all the Inns of Court, but they did not answer the hopes or expectations of the Bench. The attendance at the commencement of the first Course was numerous, sometimes upwards of ninety; but the numbers rapidly declined, and at the end of the third Course (the end of the first year) had diminished at least one half. Under these circumstances it was not thought expedient to carry out the recommendation as to Examinations, &c. (L, page 11 and 12). The average number attending the fourth Course was only about eighteen; the sixth (the end of the second year), five; the seventh, eighth, and ninth Courses, sometimes none, and generally only two, three, or four.

The number who paid to the first Course was one hundred and ten, to each of the three last courses but one.

Upon the termination of Mr. Long's engagement, considering the entire failure of the attempt, the Bench did not feel themselves justified in again appointing a Lecturer for three years; but under the hopes that some general system would be adopted by all the Inns of Court, and unwilling to abandon the attempt, they resolved for the present to renew the former Readings at New Inn, but to increase the number of Lectures, and hold them in the Middle Temple Hall, instead of New Inn Hall, and admit all Students, including those belonging to the other Inns, gratuitously; and Mr. Bowyer, D.C.L., having agreed to accept the office for a year, with a Stipend of One Hundred Guineas, he was, on the 23rd November, 1849, appointed (Mr. Long's appointment having terminated in October). He was to give three or four Lectures each term, and two or three in Vacation. He commenced his Lectures Hilary Term, 1850; delivered fifteen (including two inaugural) between that and Michaelmas Term, when he resigned. These Lectures were not confined to Civil Law, &c., as Mr. Long's were, but embraced various subjects. The numbers attending these Lectures varied from eight to seventy-two, the average being about thirty-four (including the Inaugural Lectures).

Mr. J. G. Phillimore was appointed to succeed Mr. Bowyer, 17th January 1851, on the same terms as Mr. Bowyer, and continued in Office until the appointment of Mr. Long in 1852.

The average number attending the Lectures of Mr. Phillimore, (which were sixteen,) was (excluding the two Inaugural Lectures) about twenty.

The New Inn Readings, and fines for non-attendance, have been discontinued since 1852.

There is a Library belonging to this Inn, the regulations in respect of admission to which I enclose. Each Member on admission to the Inn pays Two Pounds and Ten Shillings to the Library, and the Student pays an additional sum of Two Pounds and Ten Shillings to the same on being called to the Bar; in addition to which, each Barrister, on being called to the Bench pays to the Library a sum of Ten Pounds.

I am, &c.,

Julius Talbot Airey, Esq.,
Secretary to Her Majesty's Commissioners, &c.

C. H. Whitehurst,
Treasurer of the Middle Temple.

Abstract of Covenants from an Indenture between Middle Temple and New Inn.

An Abstract of the Covenants from an Indenture bearing date the 25th day of October, 1745, between the Societies of the Middle Temple and New Inn.

And the said Thomas Moore, Thomas Lyte, Amos Callard, James Humberston, Thomas Smith, William Hunt, John Firth, James Willis, Edward Emily, William Templeman, John Tarrant, and Henry Cruwys, do hereby for themselves, jointly and severally, and for their Executors, Administrators, and Assigns, covenant with the said Philip Lord Hardwicke, Arthur Onslow, Sir James Lowther, Sir Thomas Clarke, Edward Shelley, Humphrey Brent, Francis Fane, Francis Dickens, Edward Bathurst, and Francis Eld, their heirs and assigns, in manner following; that is to say, that they, the said Thomas Moore, Thomas Lyte, Amos Callard, James Humberston, Thomas Smith, William Hunt, John Firth, James Willis, Edward Emily, William Templeman, John Tarrant, and Henry Cruwys, their Executors, Administrators, and Assigns, shall and will yearly and every year during the said term of 300 years well and truly pay or cause to be paid unto the said Philip Lord Hardwicke, Arthur Onslow, Sir James Lowther, Sir Thomas Clarke, Edward Shelley, Humphrey Brent, Francis Fane, Francis Dickens, Edward Bathurst, and Francis Eld, their Heirs and Assigns, the said yearly rent or sum of Four Pounds, at one entire payment, on the said feast day of the Nativity of St. John the Baptist in every year, free and clear, and without any deductions or abatements thereout to be made for or on account of any manner of Taxes or Assessments, or other account whatsoever, according to the reservation thereof as aforesaid.

And further, that whenever and so often as it shall happen that the number of them, the said Thomas Moore, Thomas Lyte, Amos Callard, James Humberston, Thomas Smith, William Hunt, John Firth, James Willis, Edward Emily, William Templeman, John Tarrant, and Henry Cruwys, or of any future Principal or Treasurer and Ancients of the Society of New Inn aforesaid, Assignees of this present Lease and of the premises and term hereby demised, shall, by the deaths of any of them, be reduced to four or any lesser

Abstract of Covenants, &c.—*cont.*

number, that then such four or other lesser number of them surviving shall and will, before the end of the then next Term, make and execute a proper and effectual Assignment by Indenture of all and singular the said premises hereby demised unto some one or more indifferent person or persons, and his or their Executors, Administrators, and Assigns, for the remainder of the said term of 300 years which be then to come and unexpired, under and subject to the Rent, Covenants, and Provisoes herein-before expressed; and that such indifferent person or persons shall forthwith, after such assignment to him or them made, make and execute another proper and effectual Assignment by Indenture of all and singular the said premises hereby demised unto the person or persons who shall so have assigned the same to him or them, and to such other persons as from time to time for the time being shall be Principal or Treasurer, or Ancients of the said Society of New Inn, their Executors, Administrators, and Assigns, for the then remainder of the said term of 300 years hereby demised, subject to the Rent, Covenants, and Provisoes herein-before expressed.

And furthermore, that such surviving four or other lesser number of them, the said Thomas Moore, Thomas Lyte, Amos Callard, James Humberston, Thomas Smith, William Hunt, John Firth, James Willis, Edward Emily, William Templeman, John Tarrant, and Henry Cruwys, or of any future principal or treasurer and ancients of New Inn aforesaid, assignees of this present lease and of the premises and term hereby demised, shall and will, from time to time within fourteen days after the date and execution of every such assignment as aforesaid respectively, give notice thereof to the Treasurer and Masters of the Bench of the said Society of the Middle Temple for the time being, by leaving with the said Treasurer, or with the Under Treasurer of the same Society for the time being, a True Copy of every such Assignment or Assignments, signed and subscribed by the respective Assignee or Assignees to be therein from time to time named.

And the said Philip Lord Hardwicke, Arthur Onslow, Sir James Lowther, Sir Thomas Clarke, Edward Shelley, Humphrey Brent, Francis Fane, Francis Dickens, Edward Bathurst, and Francis Eld, do hereby for themselves severally, and not jointly, nor the one for the other or others of them, or for the acts or deeds of the other or others of them, and only for their own respective Heirs, Executors, and Administrators, covenant with the said Thomas Moore, Thomas Lyte, Amos Callard, James Humberston, Thomas Smith, William Hunt, John Firth, James Willis, Edward Emily, William Templeman, John Tarrant, and Henry Cruwys, their Executors, Administrators, and Assigns, that they, the said Thomas Moore, Thomas Lyte, Amos Callard, James Humberston, Thomas Smith, William Hunt, John Firth, James Willis, Edward Emily, William Templeman, John Tarrant, and Henry Cruwys, their Executors, Administrators, and Assigns, duly paying the aforesaid rent according to the aforesaid reservation thereof, and duly observing, performing, and keeping all the covenants, conditions, and agreements herein contained, and which on their parts are or ought to be performed and kept, shall or lawfully may from henceforth, for and during all the aforesaid term of 300 years hereby demised, peaceably and quietly have, hold, use, occupy, possess, and enjoy all and singular the said premises hereby demised, and have, receive, take, and enjoy all and singular the rents, issues, and profits thereof, withot any lett, suit, trouble, entry, or eviction of, or by the said Philip Lord Hardwicke, Arthur Onslow, Sir James Lowther, Sir Thomas Clarke, Edward Shelley, Humphrey Brent, Francis Fane, Francis Dickens, Edward Bathurst, and Francis Eld, or any of them, their or any of their Heirs or Assigns, or any other person or persons whomsoever lawfully claiming or to claim the said premises or any part thereof by, from, or under them or any of them, each of them to be only answerable for himself and for his own Heirs and Assigns, and only for his and their own acts and deeds.

Accounts of Middle Temple.

STATEMENT of Receipts and Payments of the Honourable Society of the Middle Temple for the Year 1850.

Receipts.	£	*s.*	*d.*
Easements	2	4	6
Contributions of the Inner Temple for Repairs	6	0	6
Child and Co.'s Rent	8	0	0
Lapsed Rents	40	0	0
Rents of Chambers and Shops	6,654	5	5
Fines on Admission	212	0	0
Fines on Calls to the Bench	1,124	0	0
Duties	2,266	6	6
Options on Chambers	16	16	0
Readers	42	0	0
Fees, Officers, &c.	487	19	10
Dividends	1,398	0	0
Chamber Assignments	43	6	8
Interest, &c. on Small Items	36	10	1
Auditor's Fine	10	0	0
Commons	1,520	18	6
Total	£13,868	8	0

Payments.	£	*s.*	*d.*
Library	433	11	7
Church, and Master's House	1,009	6	11
Revising Lists	15	0	0
Coals and Lights	501	18	6
Rates and Taxes	732	11	7
Insurance	198	13	10
Serjeant's Fee	10	0	0
Child Deserted	9	2	0
Donations	45	0	0
Pensions	158	12	0
Law Expenses	4	2	0
Stationery	69	10	7
Repairs	2,481	10	0
Officers' Salaries	2,795	0	0
Cook	2,218	3	1
Robes	44	3	1
Servants' Allowance	281	9	11
Total	£11,007	15	1

Accounts of Middle Temple—*cont.*

STATEMENT of Receipts and Payments of the Honourable Society of the Middle Temple for the Year 1851.

Receipts.	£	s.	d.
Easements	0	2	0
Contributions of the Inner Temple for Repairs	—		
Child and Co.'s Rent	32	0	0
Lapsed Rents	60	15	0
Rents of Chambers and Shops	7,324	18	0½
Fines on Admission	182	0	0
Fines on Calls to the Bench	—		
Duties	2,197	8	4
Options on Chambers	42	0	0
Readers	42	0	0
Fees, Officers	127	14	2
Dividends	1,485	7	6
Chamber Assignments	—		
Interest, &c. on Small Items	1	9	3
Auditor's Fine	—		
Commons	1,455	0	4
Total	£12,950	14	7½

Payments.	£	s.	d.
Library	434	3	10
Church, and Master's House	969	6	8
Revising Lists	15	0	0
Coals and Lights	703	13	5
Rents and Taxes	553	10	2
Insurance	188	7	0
Serjeant's Fee	—		
Child Deserted	—		
Donations	—		
Pensions	211	16	0
Law Expenses	—		
Stationery	85	0	6
Repairs	2,249	9	1
Officers' Salaries	2,287	18	3
Cook	1,485	2	10
Robes	2	7	6
Servants' Allowances	212	12	0
Total	£9,898	7	3

STATEMENT of Receipts and Payments of the Honourable Society of the Middle Temple for the Year 1852.

Receipts.	£	s.	d.
Easements	0	6	0
Contributions of the Inner Temple for Repairs	24	2	0
Child and Co.'s Rent	—		
Lapsed Rents	34	15	0
Rents of Chambers and Shops	7,061	13	2½
Fines on Admission	150	0	0
Fines on Calls to the Bench	1,876	0	0
Duties	2,403	15	3
Options on Chambers	8	8	0
Readers	42	0	0
Fees, Officers	125	5	0
Dividends	1,543	12	6
Chamber Assignments	66	13	4
Interest, &c. on Small Items	—		
Auditor's Fine	—		
Commons	1,159	13	0
Total	£14,496	3	3½

Payments.	£	s.	d.
Library	211	19	3
Church, and Master's House	905	12	9½
Revising Lists	15	0	0
Coals and Lights	398	5	8
Rates and Taxes	681	5	1
Insurance	188	7	0
Serjeant's Fee	—		
Child Deserted	—		
Donations	50	0	0
Pensions	246	16	0
Law Expenses	47	15	10
Stationery	19	9	1
Repairs	1,864	13	9½
Officers' Salaries	2,924	0	10
Cook	1,625	14	6
Robes	—		
Servants' Allowances	210	12	0
Total	£9,389	11	10

STATEMENT of Receipts and Payments of the Honourable Society of the Middle Temple for the Year 1853.

Receipts.	£	s.	d.
Easements	2	13	3
Contributions of the Inner Temple for Repairs	6	0	6
Child and Co.'s Rent	16	0	0
Lapsed Rents	—		
Rents of Chambers and Shops	7,285	6	11½
Fines on Admission	314	0	0
Fines on Calls to the Bench	331	0	0
Duties	2,170	2	4½
Options on Chambers	16	16	0
Readers	42	0	0
Fees, Officers, &c.	28	1	4
Dividends	1,601	17	6
Chamber Assignments	40	0	0
Interest, &c., on Small Items	—		
Auditor's Fine	—		
Commons	1,228	4	0
Total	£13,082	1	11

Payments.	£	s.	d.
Library	311	19	5
Church, and Master's House	918	19	1
Revising Lists	14	15	0
Coals and Lights	882	0	11
Rates and Taxes	784	1	8
Insurance	188	7	0
Serjeant's Fee	—		
Child Deserted	—		
Donations	2	12	6
Pensions	282	7	5
Law Expenses	20	6	10
Stationery	60	17	2
Repairs	1,578	1	10
Officers' Salaries	2,695	2	4
Cook	1,233	15	9
Robes	—		
Servants' Allowances	238	1	2
Total	£9,211	8	1

Accounts of Middle Temple—*cont.*

A RETURN showing the Number of Students admitted of the Honourable Society of the Middle Temple in the undermentioned Years.

1849	59
1850	54
1851	43
1852	39
1853	32

STATEMENT of Receipts and Payments of the Honourable Society of the Middle Temple for the Year 1854.

Receipts.

	£	s.	d.
Easements	0	3	9
Contributions of the Inner Temple for Repairs	6	0	6
Child and Co.'s Rent	—		
Lapsed Rents	4	2	6
Rents of Chambers and Shops	5,618	7	0
Fines on Admission	370	0	0
Fines on Calls to the Bench	331	0	0
Duties	1,110	5	1½
Options on Chambers	16	16	0
Readers	42	0	0
Fees, Officers	18	16	0
Dividends	1,644	19	7
Chamber Assignments	—		
Interest, &c. on Small Items	27	7	11
Auditor's Fine	—		
Commons	1,002	12	3
Total	£10,192	10	7½

Payments.

	£	s.	d.
Library	380	13	9
Church, and Master's House	248	10	0
Revising Lists	15	0	0
Coals and Light	641	2	1
Rates and Taxes	773	0	3
Insurance	188	7	0
Serjeant's Fee	—		
Child Deserted	—		
Donations	9	15	0
Pensions	260	0	0
Law Expenses	5	14	0
Stationery	32	2	3
Repairs	2,006	5	5
Officers' Salaries	3,156	5	4
Cook	1,033	9	3
Robes	1	10	6
Servants' Allowances	244	1	0
Total	£9,001	15	10

MIDDLE TEMPLE, 1852.

Income.

	£	s.	d.
Rents	7,120	16	2½
Dividends	1,543	12	6
Sundries	75	1	4
Payments from Members	5,756	13	3
	£14,496	3	5½

Outgoings.

		£	s.	d.	£	s.	d.
Repairs, Extra Works, and Insurance					2,024	4	9½
Rates, Taxes, Watching, Lighting, Garden, &c.					1,246	17	9
Library	Salaries	162	0	0	372	6	3
,,	Expenses	210	6	3			
Church	Salaries	664	4	3	763	8	9¼
,,	Expenses	99	4	6½			
Hall and Kitchen, &c. including Wine	Salaries	910	5	0	3,910	12	6
,, ,,	Expenses	3,000	7	6			
Establishment Generally	Salaries				1,090	0	0
Pensions and Gratuities					294	10	0
Miscellaneous					661	11	5
					£10,363	11	3

1853.

Income.

	£	s.	d.
Rents	7,310	0	8½
Dividends	1,601	17	6
Sundries	56	16	0
Payments from Members	4,351	3	8½
	£13,319	17	11

Accounts of Middle Temple—*cont.*

1853—*cont.*

Outgoings.

		£	s.	d.	£	s	d.
Repairs, Extra Works, and Insurance					1,775	5	11
Rates, Taxes, Watching, Lighting, Garden, &c.					1,885	0	10
Library	Salaries	162	0	0	323	19	5
,,	Expenses	161	19	5			
Church	Salaries	637	13	0	812	8	8
,,	Expenses	174	15	8			
Hall and Kitchen, &c. including Wine	Salaries	900	1	6	4,198	12	0
,, ,,	Expenses	3,298	10	6			
Establishment Generally	Salaries				1,090	0	0
Pensions and Gratuities					248	19	1
Miscellaneous					984	9	8
					£11,354	15	7

1854.

Income.

	£	s.	d.
Rents	5,628	13	9
Dividends	1,644	19	7
Sundries	44	3	11
Payments from Members	2,874	13	4½
	£10,192	10	7½

Outgoings.

		£	s.	d.	£	s.	d.
Repairs, Extra Works, and Insurance					1,829	3	2
Rates, Taxes, Watching, Lighting, Garden, &c.					1,640	17	10
Library	Salaries	162	0	0	492	13	9
,,	Expenses	330	13	9			
Church	Salaries	628	14	4	766	9	0
,,	Expenses	137	14	8			
Hall and Kitchen, &c. including Wine	Salaries	900	5	0	3,310	11	11
,, ,,	Expenses	2,410	6	11			
Establishment Generally	Salaries				1,090	0	0
Pensions and Gratuities					260	0	0
Miscellaneous					801	18	1
					£10,191	13	9

Return of Number of Members dining in Hall of Middle Temple in 1854.

MEMBERS Dining in the Hall in the Year 1854.

——	Benchers.	Barristers.	Students.	Total.
Hilary Term	24	80	90	194
Easter Term	23	94	88	205
Trinity Term	22	100	85	207
Michaelmas Term	24	98	92	214
TOTAL	93	372	355	820

Accounts of Middle Temple.

(3.)—Middle Temple.

Officers' Salaries.

	£		£
Sub-Treasurer	600	Bench Waiter	30
Clerk to do.	150	Pannierman	40
Library Keeper	150	Washpot	60
Reader	150	Chief Cook	75
The Master	70	Under Cook	70
The Treasurer	100	Head Porter	70
Surveyor	100	Under Porter	60
House Steward	150	Gardener	60
Chief Butler	150	Laundress	22
Chief Bench Butler	120	Warders (Two)	78
Puisne Bench Butler	70	Watchmen (Eleven)	330
Assistant Bench Butler	30	Waiters (Fourteen)	280
Bar Butler and Verger	40	Assistant to Butler	10
Puisne Bar Butler and Verger	30	Rubbish Carter	30
Assistant Bar Butler	30		

Return of Attendance in Hall of Middle Temple in 1853–1854.

(4.)—Attendance in Hall.

Each Mess consisting of four Gentlemen.

——	Benchers.	Barristers.	Students.
	Messes of 4.	Messes of 4.	Messes of 4.
1853.			
Hilary Term	41 Average 2 per day.	110 Average 5 per day.	193 Average 10 per day.
Easter Term	37 Average 1½ per day.	154 Average 7 per day.	137 Average 6 per day.
Trinity Term	33 Average 1½ per day.	145 Average 7½ per day.	139 Average 7 per day.
Michaelmas Term	38 Average 2 per day.	132 Average 6 per day.	151 Average 6 per day.
1854.			
Hilary Term	37	78	182
Easter Term	35	88	180
Trinity Term	32	101	169
	Messes.	Messes.	Messes.
Average	1½ per day.	5½ per day.	8 per day.

Answer to Circular from Lincoln's Inn.

Answer to the Circular of Her Majesty's Commissioners from the Treasurer of the Honourable Society of Lincoln's Inn.

Inns of Court Inquiry Commission,
Lincoln's Inn, May 20, 1854.

Sir,

I have the honour to acknowledge the receipt of your communication of the 12th inst., and feel happy to state that I have the authority of a Special Council of the Society to express our desire to assist Her Majesty's Commissioners by according the fullest information on the matters therein referred to, so far as they relate to the Society of Lincoln's Inn.

In replying to the inquiry of the Commissioners as to the existing Arrangements of the Society for Promoting the Study of Laws and Jurisprudence, I would observe that the Benchers have a lively feeling of the importance of affording to Students the means of acquiring a sound Legal Education, and they have given the subject much consideration, with a view of determining on the best means to promote so desirable an object.

Without entering into the details of earlier arrangements as to Legal Education, it may be enough to state that in the year 1851 a Committee of the Benchers was appointed to consider a Scheme for Legal Education and united action by the four Inns of Court, and to communicate thereupon with Committees of the three other Inns. These Committees, having met from time to time, and maturely considered the matter, agreed upon a Report, which was afterwards presented to the Benchers of the Society in Council, and was thereupon con-

Answer to Circular from Lincoln's Inn —*cont.*

firmed and directed to be carried into effect. A Printed Copy of this document (marked No. 1), which is declared to contain the Rules of the four Inns of Court, I beg to enclose for the further information of the Commissioners.

In accordance with the provisions of the Report before mentioned, the Benchers of this Society, by an Order of Council, dated the 4th day of May 1852, appointed two Members of their body, the Right Honourable Sir Edward Ryan and Sir William Page Wood, to be Members of the Standing Committee, or Council of Legal Education, established by the four Inns of Court, to superintend the whole subject of the Education of Students for the Bar. This appointment, which was made for a term of two years, has been renewed for a further term of like duration.

On the 30th day of June, 1852, William Lloyd Birkbeck, Esq., a Barrister of the Inner Temple, was appointed by this Society to the Office of Reader on Equity, one of the five Readerships founded in conformity to the Report before cited.

The sum which this Society has been called upon to pay as their proportionate contribution to the funds at the disposal of the Council of Legal Education has hitherto been as follows:—

For the Lectures and Studentships,	444*l.*	per Annum.
Contingent Expenses - -	25*l.*	,,
Total - -	469*l.*	,,

This sum is liable to increase, and in fact an increased demand of 550*l.* a year, exclusive of Contingent Expenses, is now made by the Council of Legal Education on the Society.

It is a regulation of this Society that no Student shall be called to the Bar who has not either attended during one whole year the Lectures of two of the Readers, or satisfactorily passed a Public Examination; and a Certificate of such attendance or Examination is required to be produced under the Hands and Seal of the Council of Legal Education before a Student can be admitted to the Bar.

The Public Lectures of the Reader on Constitutional Law and Legal History are delivered in Lincoln's Inn Hall on Wednesday in each week during the Educational Terms, and the Lectures of the Reader on Equity on Thursday in each week during the same period. The two Readers are also provided by the Society with the use of a spacious room for the reception of their respective Classes, which are met by the Readers three days a week during the Educational Terms. The Public Examinations which take place in each Term are also conducted at Lincoln's Inn Hall.

Of the nature of the Public Lectures and Examinations I have felt that the Commissioners may, perhaps, be best enabled to inform themselves, by a reference to the Prospectus of the Lectures of the current Term, and to a Prospectus relating to an Examination appointed for next week, copies of which documents (marked respectively No. 2 and No. 3) I accordingly beg to enclose.

There exists a Library at Lincoln's Inn, the property of this Society, it contains about 28,000 Volumes, and is open to Members of this Society from 9 o'clock a.m. until 4 o'clock p.m., daily throughout the year; except during the month of September, two weeks at Christmas, and three days at Easter, for which several periods the Library is closed.

The privilege of Admission is also granted to Members of the other Inns of Court, and occasionally to persons not of the Legal Profession, for the purposes of Literary research, by Orders signed by any of the Benchers.

The daily average number of Readers in the Library may be estimated at eighty, about twenty of whom are Students of Lincoln's Inn; and it has not unfrequently happened that upwards of one hundred persons in one day have made use of the Library. During the last twelve months it has been found that about six hundred Individuals have resorted to the Library, about one fifth of which number are not Members of this Society.

Having thus communicated, to the best of my knowledge, such information as appeared to be sought by the Commisssion, I beg to add that I shall be happy at all times to aid them in their inquiries with regard to the Society of which I have the honour to be the Treasurer.

I am, &c.,

FITZROY KELLY, Treasurer.

To Julius Talbot Airey, Esq.,
Secretary Inns of Court Inquiry Commission.

ABSTRACT of MUNIMENTS of TITLE of the Honourable Society of LINCOLN'S INN.

Abstract of Muniments of Title of Lincoln's Inn.

6th December, 27 Henry VIII., 1535.

By Indenture made between Robert Bishop of Chichester of the one part, and William Sulyard of the other part, It is witnessed that the said Bishop did Grant, and to Farm Let, unto the said William Sulyard, all that his great Messuage called Lincoln's Inn, with the Courts, Curtiledges, Orchards, and Gardens, together with a Certain Way through the Gate called Field Gate, opposite the House of Converts, commonly called the Rolls, viz., in the Public Street called Chancery Lane, through the aforesaid Gate as far as the Field called Fykett's Field, and so directly up to the aforesaid House, to pass and repass through the same way with Horses, Carriages, and Carts at all times in the year, together with the Rights, Members, and Appurtenances, Ways, Paths, Hedges, and Ditches to the aforesaid House belonging, or in any ways to the same Messuage appertaining, situate or lying in the Parishes of St. Andrew in Holborn, and St. Dunstan in the West, of London, in the county of Middlesex; to hold the same unto the said William Sulyard, his Executors and Assigns, from

Abstract of Muniments of Title of Lincoln's Inn—*cont*

Michaelmas day then last, for the term of 99 years, at the rent of ten marks, to be paid to the said Bishop and his successors on the feast day of St. Michael in every year. Executed by the said Robert Bishop of Chichester, and confirmed by the Dean and Chapter, the 5th of January 1535.

1st July, 28 Henry VIII., 1536.

By Deed Poll under the Hand and Seal of Richard Bishop of Chichester, and under the Corporate Seal of the Dean and Chapter, the said Bishop Gave, Granted, and Confirmed unto the said William Sulyard and Eustace Sulyard all that great Messuage called Lincoln's Inn, with the Courts, Curtiledges, Gardens, and the Garden called the Coney Garth, formerly called Cotterell Garden, with its Appurtenances, together with a Certain Way through the Gate called Field Gate, opposite the House of Converts, commonly called the Rolls, viz., in the Public Street called Chancery Lane, through the same Gate as far as the Field called Fykett's Field, and so directly to the said House to pass and repass through the same way at all times in the year, situate or lying in the parish of St. Andrew in Holborn, St. Dunstan's in the West, and St. Giles in the Fields, in the County of Middlesex; to hold the same to the said William Sulyard and Eustace Sulyard, their Heirs and Assigns, of the Chief Lords of the Fee thereof, by the services therefore due and of right accustomed, to Wit of Lord Prior St. John of Jerusalem in England, and his successors, by fealty for all services to be exacted and demanded. Warranty from the said Bishop against the Abbot of Westminster, and Letter of Attorney to make Livery and Seizen thereof to the said William Sulyard and Eustace Sulyard, their Heirs and Assigns. Executed by the said Richard Bishop of Chichester, and confirmed by the Dean and Chapter, 1st August, 1536.

N.B.—The said William and Eustace Sulyard were brothers, Eustace survived William, and afterwards died, leaving one son named Edward.

8th November, 22 Elizabeth, 1580.

By Indenture of this date made between Edward Sulyard of Stanwey, in the county of Essex, Esq., of the one part, and Richard Kingsmill, Esq., Attorney of Her Majesty's Court of Wards and Liveries, Robert Kemp, John Leonard, Ralph Rokeby, George Stratforde, James Dalton, Thomas Wykes, Stephen Thymylby, Richard Davie, Humphery Brydges, Richard Atkins, George Kingsmill, Robert Rythe, Christopher Jennie, Henry Townshend, Thomas Egerton, Robert Clarke, and Thomas Owen, Esquires, of the other part. It is Witnessed, that in consideration of 520*l.* to the said Edward Sulyard paid by the other parties thereto, he the said Edward Sulyard did Bargain, Sell, and Grant unto the other parties thereto, their Heirs and Assigns, all that Messuage commonly called Lincoln's Inn, situate near Chancery Lane, in the suburbs of the City of London, and all Buildings, Yards, &c. to the same belonging, with one way in, by, and through the Gate commonly called the Field Gate, over and against part of the Houses belonging to the Rolls, and leading from the said Lane called Chancery Lane into the Field called Fykett's Field, and so directly over the said field unto the said Messuage called Lincoln's Inn, with Carts and Carriages at all times of the year, and all other the Houses, Buildings, Lands, Tenements, and Hereditaments whatsoever, which at any time were, either of the said William Sulyard deceased, uncle to the said Edward Eustace Sulyard, Esquire, father of the said Edward, or the said Edward, and used or occupied to or with the said Messuage, or any other the premises or any part thereof situate, lying, or being in the Parishes of St. Dunstan, St. Andrew Holborn, and St. Giles in the Fields, every or any of them, together with all Deeds, &c.; to hold the same to the said Richard Kingsmill, and the several other grantees parties thereto, their Heirs and Assigns for ever. Covenants by the said Edward Sulyard that he was seised in fee of the said Messuage and Premises, had good right to assure that he would, before the Feast of St. Andrew then next ensuing, make and convey or cause to be made and conveyed to the said grantees and their Heirs such a good and lawful Estate in Fee Simple as should be advised and required by them, free from incumbrances and for further assurance. Declaration that after the sealing and delivery of the now abstracting Indenture, they the said bargainees and their Heirs and Assigns, should and would permit and suffer the said Edward Sulyard, and the Heirs male of his body lawfully begotten and to be begotten, and the Assigns of every of them, being Fellows of the Fellowship of Lincoln's Inn aforesaid, and in default of such issue the Heirs male of the body of William Ayloffe (one of Her Majesty's Justices of the Pleas), and their Assigns, being Fellows of the said House, at all times from thenceforth to have and enjoy all that Chamber, Garret, and Studies, with all the Commodities thereunto belonging which the said Edward Sulyard then had, being situate in Lincoln's Inn aforesaid, in the New Buildings there between the then Chambers of William Lambert and Humphery Wyndham, Esquires on the North, and the Chamber of John Osborn, Gent., on the South, and also all that other Chamber, with the Appurtenances, near adjoining the first said Chamber, then in the occupation of Richard Pytt and the Thomas Fawlener, Gent., according to an Order set down and agreed upon at a Council holden by the Governors, Readers, and Benchers of the said House on the day of the sealing and delivery of the abstracting Deed. Executed by the said Edward Sulyard and Attested.

12th November, 22 Elizabeth, 1580.

By Deed Poll under the Hand and Seal of the said Edward Sulyard, It is witnessed, that the said Edward Sulyard, in consideration of 520*l.* to him paid, did Grant, Enfoff, and Confirm unto the said Richard Kingsmill, Robert Kempe, John Lennard, Ralph Rokeby, George Stratforde, James Dalton, Thomas Wykes, Stephen Thymylbye, Richard Davy, Humphrey Bridges, Richard Atkins, George Kingsmill, Robert Rythe, Christopher Jennie, Henry Townshead, Thomas Egerton, Robert Clarke, and Thomas Owen, and their heirs

and assigns for ever, all the said Messuage and Premises comprised in the last abstracted Deed; to hold the same unto the said Richard Kingsmill, and the other grantees aforesaid, and their Heirs, of the Chief Lords of the Fee thereof, by ancient Services. Executed by the said Edward Sulyard, and Attested Livery of Seizen Endorsed. Abstract of Muniments of Title of Lincoln's Inn—*cont.*

Indentures of Fine between the said Richard Kingsmill and others, grantees in the last abstracted Deed, Plaintiffs, and Edward Sulyard and Ann his wife, deforceants, of One Messuage, One Garden, and Six Acres of Land, with the Appurtenances, in the Parishes of St. Dunstan's in the West of London, St. Andrew's in Holborn, and St. Giles in the Fields, in the County of Middlesex, and of the same Parcels in the Parishes of St. Dunstan's and St. Andrew's aforesaid, in the City of London. Hilary Term, 23 Elizabeth. 1581.

By Indenture between William Moresom, Citizen and Skinner, of London, and Allyce his wife of the one part, and the said Thomas Egerton, then Solicitor General to the Queen, the said Richard Kingsmill, Robert Kemp, John Lennard, Ralph Rokeby, James Dalton, Thomas Wykes, Stephen Thymylby, Richard Davie, Humphrey Brydges, Richard Atkins, George Kingsmill, Robert Rythe, Christopher Jennie, Henry Townshend, Robert Clarke, and Thomas Owen, Peter Warburton, Robert Gardener, and John Tyndale, Esquires, of the other part. It is witnessed that the said William Moresom and Allyce his wife, in consideration of twenty marks to them paid, did Bargain and Sell to the said Thomas Egerton and the other parties thereto One Piece of Ground lying in the Field called Fykett Field, on the South side of Lincoln's Inn, adjoining to the Building there contained within the limits and bounds thereafter following, viz., extending from the Turnpike Gate of Lincoln's Inn, adjoining the said Field, to the Mud Wall next the Gardens in the occupation of John Bevington and others westward 112 feet of Assize, and from the North end of the said Mud Wall to the Ground then in the occupation of John Popham, Esquire, then Attorney General to the Queen, adjoining the said Field southwards 65 feet of Assize, and thence direct and straight to the way leading from Chancery Lane through the same Field to Lincoln's Inn aforesaid, towards the West 100 feet of Assize, and from thence direct and straight by the said way to the Turnpike Gate aforesaid towards the North 83 feet of Assize, to hold the same unto and to the use of the said Thomas Egerton, and the several other grantees parties thereto, their Heirs and Assigns for ever. Executed by the said William Moresom and Allyce his wife, and Attested. 10th May, 25 Elizabeth 1584.

RETURN of the INCOME and EXPENSES of the Society during the year 1852. Accounts of Lincoln's Inn.

(Classified under the various Heads forming the Sources of Receipts and Disbursements respectively.)

RECEIPTS.

Income derived from Property.

	£	s.	d.	£	s.	d.
Rent of Chambers, &c.	8,388	12	8			
Ground Rent, Furnival's Inn, and Chmbers in the Stone Building	713	0	6			
Land Tax Redeemed	174	15	8			
Colfer's Lectures	20	0	0			
				9,296	8	10

Payments made by Members for Dues &c.

Eating Commons	2,400	4	0			
Absent Commons	3,273	5	2			
Vacation Commons	830	0	0			
Chapel, &c., and Pensions	1,099	19	0			
Gowns	115	5	6			
Fees	340	7	10			
Fines on Admission to the Society	234	6	8			
Fines on Call to the Bar	185	0	0			
Library Fines	185	0	0			
Alienation Fines on Chambers	22	13	4			
Insurance in part of Society's Payments	30	15	9			
Incidents	11	11	0			
				8,728	8	3
				£18,024	16	3

DISBURSEMENTS.

Expenses under the head "Fixed Charges."

	£	s.	d.	£	s.	d.
Interest on the loan of 40,000*l.*	1,553	6	8			
Insurance	326	18	10			
Rates	589	10	10			
Taxes (exclusive of Income Tax allowed to Tenants and paid by them)	280	7	1			
Salaries	3,662	15	0			
Pensions	57	18	0			
Gas Lighting	590	8	0			
Watch	435	4	0			
				7,456	8	5

Other Expenses.

Extra works: Alterations made at the Old Hall to provide a Court, &c., for the Lords Justices	1,004	19	2			
Repairs, &c., as per Tradesmen's Bills	1,382	4	11			
Dinners in the Hall (but not Wine)	4,065	14	9			
Wine	1,225	10	0			
The Library, exclusive of Salaries	720	6	10			
The Chapel, exclusive of Salaries	85	8	6			
Gratuities	10	5	0			
Coals, Coke, and Wood	172	6	6			
Stationery, &c.	121	12	5			
Miscellaneous	99	3	10			
				8,887	11	11
Excess of Income, year 1852				1,680	15	11
				£18,024	16	3

Charges met from the above excess:—

Investment towards the Liquidation of Mortgage Debt	1,500	0	0
Legal Education	247	1	8
	£1,747	1	8

Accounts of Lincoln's Inn—*cont.*

ANALYSIS of the Sum of 3,622*l.* 15*s.*, the amount paid by the Hon. Society of Lincoln's Inn for Salaries in the Year 1852.

	£	s.	d.
The Rev. the Preacher	200	0	0
" Rev. the Assistant Preacher	105	0	0
" Rev. the Chaplain	300	0	0
" Surveyor	100	0	0
" Steward	500	0	0
" Librarian	300	0	0
" First Clerk in the Steward's Office	180	0	0
" Second Clerk	160	0	0
" Third Clerk	102	10	0
" Assistant Librarian	80	0	0
" Organist, Men Singers, and Boys of the Chapel Choir	486	6	0
" Chapel Clerk for Sunday Service	21	0	0
" Chapel Clerk for the Daily Morning Service	18	0	0
" Pew Opener	10	0	0
" First Butler	80	0	0
" Second Butler	26	15	0
" Third Butler	26	18	0
" Fourth Butler	17	15	0
" Fifth Butler	20	0	0
" Usher of the Hall	100	0	0
" Gardener, including Charges for the Gardens	160	0	0
" Chief Porter	42	16	0
" Head Porter	78	16	0
" Other Porters	100	19	0
" Constables	54	12	0
" Dustman	52	0	0
" Scavenger	46	7	0
" Two Gate Keepers at the Garden Entrances to the Hall	81	11	0
" Engineer's Man attending the Furnaces of the Hall, Library, and Chapel	86	10	0
" Laundresses	85	0	0
	£ 3,622	15	0

RETURN of the INCOME and EXPENSES of the Society during the Year 1854, classified under the various heads forming the Sources of Receipts and Disbursements respectively.

Income derived from Property.

	£	s.	d.	£	s.	d.
Rent of Chambers, &c.	9,025	3	2			
Ground Rent, Furnival's Inn, and Chambers in the Stone Building	743	6	6			
Land Tax redeemed	174	4	7			
Colfer's Lectures	20	0	0			
				9,962	14	3

Payments made by Members for Dues, &c.

Eating Commons	2,159	3	0			
Absent Commons	2,853	2	8			
Vacation Commons	864	0	0			
Chapel, &c., and Pensions	1,014	11	3			
Gowns	104	3	6			
Fees	346	17	7			
Do. per Sir R. T. Kindersley	85	7	4			
Fines on Admission to the Society	237	10	0			
Fines on Call to the Bar	255	0	0			
Library Fines	276	0	0			
Alienation Fines on Chambers	37	6	8			
Insurance in part of Society's Payments	37	11	10			
Incidents	9	4	2			
				8,279	18	0
				£18,242	12	3

Expenses under the head "Fixed Charges."

	£	s.	d.	£	s.	d.
Interest on the Loan of 40,000*l.*	1,354	11	4			
Insurance	331	5	6			
Rates	714	7	8			
Taxes (exclusive of Income Tax allowed to Tenants and paid by them)	223	18	3			
Salaries	3,625	2	8			
Pensions	51	15	0			
Gas Lighting	192	11	5			
Watch	442	19	3			
				6,936	10	10

Other Expenses.

Extra Works (Preparation for Fresco Painting in the Hall, and Renewal of Gravel Walks)	237	14	0			
Repairs, &c., as per Tradesmen's Bills	757	4	3			
Dinners in the Hall (but not Wine)	4,157	16	3			
Wine	1,146	2	6			
The Library (exclusive of Salaries)	550	0	4			
The Chapel (do.)	101	15	0			
Gratuities	171	18	0			
Coals, Coke, and Wood	137	19	6			
Stationery	84	0	11			
Miscellaneous	64	6	7			
				7,408	17	7
Excess of Income, year 1854				3,897	3	10
				£18,242	12	3

Charges met out of the above excess:—

Investment towards the liquidation of Mortgage Debt	£1,500
Legal Education	557
	£2,057

Accounts of Lincoln's Inn—*cont.*

ANALYSIS of the Sum of 3,625*l.* 2*s.* 8*d.*, the Amount paid by the Honourable Society of Lincoln's Inn for Salaries in the Year 1854.

	£	s.	d.
The Rev. the Preacher	200	0	0
" Rev. the Assistant Preacher	105	0	0
" Rev. the Chaplain	300	0	0
" Surveyor	100	0	0
" Steward	500	0	0
" Librarian	350	0	0
" First Clerk in the Steward's Office	180	0	0
" Second Clerk	160	0	0
" Third Clerk	110	0	0
" Assistant Librarian	100	0	0
" Organist, Men Singers, and Boys of the Chapel Choir	428	8	0
" Chapel Clerk for Sunday Service	21	0	0
" Chapel Clerk for the Daily Morning Service	18	0	0
" Pew Opener	10	0	0
" First Butler	80	0	0
" Second Butler	26	15	0
" Third Butler	26	18	0
" Fourth Butler	17	15	0
" Fifth butler	20	0	0
" Usher of the Hall	100	0	0
" Gardener, including all Charges for the Gardens	135	0	0
" Chief Porter	42	16	0
" Head Porter	78	16	0
" Other Porters	101	1	4
" Constable	54	12	0
" Dustman	52	0	0
" Scavenger	46	15	0
" Two Gate Keepers at the Garden Entrances to the Hall	92	8	0
Engineer's Man attending the Furnaces of the Hall, Library, and Chapel	82	17	4
Laundresses	85	0	0
	£3,625	2	8

Returns of Numbers dining in Hall of Lincoln's Inn in 1854.

SIR, Lincoln's Inn, 30th January 1855.

I HAVE the honour to acknowledge the receipt of your application, dated 27th January instant, and in reply beg to submit the following Return, for the information of Her Majesty's Commissioners:—

TOTAL NUMBERS who have DINED at the STUDENTS' TABLES in Lincoln's Inn Hall during the Four Terms, in the Year 1854.

Hilary Term	1,982	persons.
Easter Term	1,828	,,
Trinity Term	1,814	,,
Michaelmas Term	2,173	,,
Total	7,797	

Maximum number on any one day, 26th January 1854, 166 persons.

To Julius Talbot Airey, Esq., Secretary, Inns of Court Inquiry Commission.

I remain, &c.,
CHARLES PURTON COOPER,
Treasurer.

In continuation of the communication made by the Treasurer of the Hon. Society of Lincoln's Inn, dated 30th January 1855:—

RETURN showing the NUMBERS of PERSONS who DINED at the BENCH TABLE, and at the BARRISTERS' TABLES, during the Four Terms of the Year 1854.

	Bench table.	Barristers' tables.
Hilary Term	216	1,204
Easter Term	200	1,351
Trinity Term	201	1,241
Michaelmas Term	207	1,431
Total	824	5,227

To Julius Talbot Airey, Esq., Secretary, Inns of Court Inquiry Commission.

M. DOYLE, Steward,
15th February 1855.

Accounts of Lincoln's Inn—*cont.*

The TABLE of the SALARIES paid by the Honourable Society of LINCOLN'S INN, furnished by Mr. Doyle, and referred to in his Evidence before the Commissioners.

AN ANALYSIS of the sum of 3,601*l.* 9*s.* 10*d.* the amount paid by the Hon. Society of Lincoln's Inn for Salaries in the Year 1853.

	Salary paid. £	s.	d.
The Rev. the Preacher	200	0	0
The Rev. the Assistant Preacher	105	0	0
The Rev. the Chaplain	300	0	0
The Surveyor	100	0	0
The Steward	500	0	0
The Librarian	350	0	0
The First Clerk in the Steward's Office	180	0	0
The Second Clerk do.	160	0	0
The Third Clerk do.	110	0	0
The Assistant Librarian	90	0	0
The Organist, Men Singers, and Boys of the Chapel Choir	375	18	0
The Chapel Clerk, for Sunday Service	21	0	0
The Chapel Clerk, for the Daily Morning Service	18	0	0
Pew Opener	10	0	0
The First Butler	80	0	0
The Second Butler	26	15	0
The Third Butler	26	18	0
The Fourth Butler	17	15	0
The Fifth Butler	20	0	0
The Usher of the Hall	100	0	0
The Gardener, including all Charges for the Gardens	160	0	0
The Chief Porter	42	16	0
The Head Porter	78	16	0
The other Porters	100	11	4
The Constable	55	13	0
The Dustman	53	0	0
The Scavenger	47	14	0
The Two Gatekeepers at the Garden Entrances to the Hall	94	4	0
Engineer's Man attending the Furnaces of the Hall, Library, and Chapel	92	9	6
Laundresses	85	0	0
Total	£3,601	9	10

(53.)

The TABULAR STATEMENT of the PROPERTY of the Honourable Society of LINCOLN'S INN, handed in by Mr. Doyle to the Commissioners.

RETURN of the Income and Expenses of the Society during the Year 1853, classified under the various Heads forming the Sources of Receipts and Disbursements respectively.

Income derived from Property.

	£	s.	d.	£	s.	d.
Rent of Chambers, &c.	8,651	14	5			
Ground Rent: Furnival's Inn and Chambers in the Stone Building	841	4	6			
Land Tax, Redeemed	174	15	8			
Colfer's Lectures	20	0	0			
				9,687	14	7

Payments made by Members for Dues, &c.

Eating Commons	2,326	3	0			
Absent Commons	3,408	13	2			
Vacation Commons	852	0	0			
Chapel, &c., and Pensions	1,132	7	6			
Gowns	110	17	0			
Fees	339	11	0			
Do., per Sir R. T. Kindersley	150	12	8			
Fines on Admission to the Society	247	0	0			
Fines on Call to the Bar	190	0	0			
Library Fines	253	0	0			
Alienation Fines on Chambers	46	0	0			
Insurance in part of Society's Payments	53	6	5			
Incidents	61	14	3			
				9,170	14	11
				£18,858	9	6

Expenses under the head "Fixed Charges."

	£	s.	d.	£	s.	d.
Interest on the Loan of 40,000*l.*	1,456	5	0			
Insurance	331	5	6			
Rates	554	5	2			
Taxes (exclusive of Income Tax allowed to Tenants and paid by them)	124	8	1			
Salaries	3,601	9	10			
Pensions	35	8	0			
Gas Lighting	390	19	2			
Watch	445	15	0			
				6,939	15	0

Other Expenses.

Extra Works, Garden Lodges	253	1	3			
Repairs, &c., as per Tradesmen's Bills	1,457	17	3			
Dinners in the Hall (but not Wine)	3,909	4	5			
Wine	1,205	8	0			
The library, exclusive of Salaries	705	18	5			
The Chapel, exclusive of Salaries	138	2	5			
Gratuities	57	10	0			
Coals, Coke, and Wood	149	15	0			
Stationery	107	19	8			
Miscellaneous	106	8	11			
				8,091	5	4
Excess of Income, year 1853				3,827	8	5
				£18,858	9	6

Present Charges on Excess of Income.

Yearly Investment	£1,500
Legal Education, as per last claim of the Council	600
	£2,100

(54.)

Return of Payments made by Members of Lincoln's Inn.

The TABULAR STATEMENT of the PAYMENTS made by the Members of the Honourable Society of LINCOLN'S INN, sent in by Mr. Doyle at the request of the Commissioners.

RETURN showing the Payments made on Admission to the Society of Lincoln's Inn, the Charges made upon Members of that Society in respect to Membership, and other Payments required to be made by the Members for Dues, Fines, Fees, and Stamps.

On Admission to the Society.

	£	s.	d.
Fines paid to the House	3	3	4
Fees to the Officers	1	19	8
Stamps: Register 25*l.*, Bond 2*s.* 6*d.*	25	2	6
	30	5	6
In respect of the Lectures, payment carried to the Account of the Council of Legal Education	5	5	0
Total	£ 35	10	6

In cases where two years' Terms have not been kept at College, a sum of 100*l.* is required to be deposited, in addition to the payment of the sum of 35*l.* 10*s.* 6*d.* as above. The Deposit would be returned (without Interest) on the subsequent production of a Certificate to the effect that two years' Terms had been kept, or on call to the Bar on leaving the Society, or in case of death.

The Dues chargeable to Students of the Society are as follows for keeping Terms, *i.e.*, for the number of days necessary to keep the Terms, or for the fourteen days, or as many of them as the Student may select, all being in the two full weeks:—

	£	s.	d.	
Eating Commons	5	16	0	per Annum.
Chapel, &c., and Pensions	0	15	4	„ „
Gowns	0	6	0	„ „
Total	£ 6	17	4	
And for every day beyond the necessary number, and taken beyond the two full weeks	0	2	0	per day extra.

If not present keeping Terms:

Absent Commons	5	12	0	per Annum.
Chapel, &c., and Pensions	0	15	4	„ „
Total	£ 6	7	4	„ „

In the event of withdrawing from the Society:

Vacation Commons	6	0	0
Fees to Officers	2	19	2
Do. to Butlers, at 5*s.* a year from the date of Admission, say	0	15	0
Petition and Order	0	4	6
Total	£ 9	18	8

Upon Call to the Bar:

Student's Vacation Commons	6	0	0
Fine on Call	5	0	0
Do. for the Library	5	0	0
Fees to Officers	4	5	0
Butler's Roll, at 5*s.* a year, say	0	15	0
Petition and Order	0	4	6
Stamps, Register 50*l.*, Bond 5*s.*	50	5	0
Total	£ 71	9	6

The following Dues are charged to Barristers of the Society for the three first years after Call to the Bar, if the Barrister do not dine in the Hall:—

	£	s.	d.	
Absent Commons	5	12	0	
Barristers' Vacation Commons	4	0	0	
Chapel, &c., and Pensions	0	15	4	
Total	£ 10	7	4	per Annum.

Return of Payments made by Members of Lincoln's Inn—*cont.*

	£	s.	d.	
If he dine in the Hall:				
Eating Commons for the fourteen days occurring in two full weeks, or for as many of these days as he may dine	5	12	0	
Barristers' Vacation Commons	4	0	0	
Chapel, &c., and Pensions	0	15	4	
Gowns	0	6	0	
Total	£10	13	4	per Annum.
For every day occurring out of the two full weeks	0	2	0	per day extra.
At the expiration of three years from the date of Call, if the Barrister do not dine:				
Absent Commons compounded	2	16	0	
Chapel, &c., and Pensions	0	15	4	
Petition and Order for compounding Commons	0	4	6	
Total	£3	15	10	per Annum.
If he dine in the Hall during the whole of two full weeks in each Term:				
Eating Commons	5	12	0	
Chapel, &c., and Pensions	0	15	4	
Gowns	0	6	0	
Total	£6	13	4	per Annum.
Any day beyond the two full weeks	0	2	0	per day extra.
Upon leaving the Society:				
If absent from the Hall during the whole of the previous year:				
Balance of Composition for Absent Commons	2	16	0	
Fees to Officers	2	19	2	
Butler's Roll (5*s.* a year from the date of Call), say	1	5	0	
Petition and Order	0	4	6	
Total	£7	4	8	
If charged with Eating Commons during the whole of the previous year:				
Fees to Officers:	2	19	2	
Butler's Roll, say	1	5	0	
Petition and Order	0	4	6	
Total	£4	8	8	
Upon Invitation to the Bench:				
Balance of Composition for Absent Commons (if absent)	2	16	0	
Library Fine	21	0	0	
Butler's roll, at 5*s.* a year from the date of Call to the Bar, say 10 years	2	10	0	
Total	£26	6	0	
Upon Admission to Chambers as Proprietor, Bencher, Barrister or Student:				
Alienation Fine for Ground or First Floor Chambers	10	0	0	
Second Floor	8	0	0	
Third Floor	6	13	4	

Return of Number of Students admitted to Lincoln's Inn from 1849 to 1853.

RETURN showing the Number of Students admitted into the Society of Lincoln's Inn in each Year, from 1849 to 1853 inclusive.

Year 1849	No. 72
,, 1850	79
,, 1851	82
,, 1852	74
,, 1853	75

CHARLES PURTON COOPER, Treasurer,
Lincoln's Inn, May 30, 1855.

To Julius Talbot Airey, Esq.,
Secretary Inns of Court Inquiry Commission.

Gray's Inn.

Statement from Gray's Inn.

A Statement by the Treasurer of the Society of Gray's Inn to Her Majesty's Commissioners for inquiring into the Arrangements of the Inns of Court and Chancery for promoting the Study of the Law and Jurisprudence, so far as the Society has made or concurred in any arrangements.

The Benchers of Gray's Inn, having taken into consideration propositions for adoption by the Committees appointed by the several Inns of Court to consider the subject of Legal Education, resolved (the 8th of July 1846) to establish and endow a Lectureship of Real Property, Conveyancing, Devises, and Bequests, and they at the same time declared their willingness on the part of the Society to contribute one fourth of the Endowment that might be necessary for the purpose of establishing and supporting a Fifth Chair, which had not then been provided for by the propositions offered for adoption.

On the 24th November 1846 the Masters of the Bench, Resolved that the sum of 300*l.* per annum for three years should be paid by the Society by way of Endowment to such person as the Bench might elect to deliver the Lectures, and they invited Gentlemen desirous to accept the Office of Lecturer to send in Testimonials of their competency to the Treasurer of the Society; and they intimated their desire, that in addition to the Lectures, some further means should be adopted to secure the attention and to ascertain the proficiency of the Students for the discussion of some appointed subjects, in which the Students should be invited to join, subject to proper regulations, and for affording opportunities to Students of stating and of obtaining from the Lecturer the solution of difficulties and Examinations in the subjects of the previous Lecture, as means by the Judicial application of which the end in view might be attained. The Benchers expressed, however, no opinion as to the best course to be adopted, but they suggested these matters to explain distinctly their object in establishing the Lectureship, and more particularly to induce each Candidate to send in such a plan of the course of instruction he proposed to adopt as might enable the Benchers to form a judgment of its probable efficiency.

On the 20th May 1847 the Benchers elected William David Lewis, Esq., a Barrister of the Honourable Society of Lincoln's Inn, to be the Lecturer of the Society, on the subject of Real Property, &c.

Mr. Lewis commenced his Lectures in Michaelmas Term, 1847, and he continued to perform the duties of Lecturer up to the 11th June 1852, the period of his resignation.

The Lectures were open to the Students of all the Inns of Court.

Each Student on admission to the Lectures was required to pay to the Lecturer a fee of 1*l.* 1*s.* for the Course of Lectures, commencing from the beginning of Michaelmas Term 1847 to 30th March 1848, which Course consisted of at least two Lectures in each week; and eighty-seven Students entered their names for the first Course, but only nineteen for the second Course.

The succeeding Courses of Lectures were delivered gratuitously to the Students, and sixty-nine entered their names for the third Course, eighty-four for the fourth Course, eighty-three for the Fifth, and seventy-eight for the last Course, commencing 3rd November 1851, and ending June 1852.

At the Suggestions of Mr. Lewis, the Bench, on the 26th January 1848, instituted a voluntary Examination, to take place in the following Trinity Term, for Honors, in the English Law of Real Property, and to be open to all Students for the Bar who joined regularly in the ordinary Lecture, Examinations, Mootings, and other Exercises (adopted by Mr. Lewis with the sanction of the Benchers), which took place between the months of January and June, that the position of the successful Candidates should be regulated by the results of the Examination in connexion with those of the ordinary exercises before mentioned, and that the names of those Students only who succeeded in obtaining places in the Class List should be made Public, so that those who did not think proper to become Candidates, or who did not succeed, might not be prejudiced.

The first Examination took place on the 7th June 1848, when eight Students presented themselves for Examination; those who passed a satisfactory Examination were placed on the Class List, and received Certificates of Honour according to merit.

The Examinations were conducted in the presence of the Benchers, and the Students were required to answer Questions both Orally and in Writing.

These Examinations were annually continued up to the year 1852 inclusive, and upon the same basis. The Lecturer, however, upon each Examination subsequent to the first, presented the Student who obtained the first place in the Class List with a Prize, consisting of a set of the Reports of Vesey, Junior.

At a Pension holden the 12th November 1851, the Benchers resolved as follows:—

"That it is desirable that the qualification for obtaining the Degree of a Barrister, should be revised and amended by the united resolutions of the four Inns of Court;" and)at a Pension holden the 19th of the same month) the Bench having resumed the subject of Legal Education, appointed a Committee to communicate with the Committees of the other Inns of Court upon the subject.

The Report of such Joint Committee was considered and adopted by the Benchers at a Pension holden the 18th February 1852.

Statement from Gray's Inn—*cont.*

The following are the resolutions of the Committee as contained in the Report as to Legal Education, viz. :—

1st. That the four Inns of Court shall act in concert with each other in the joint establishment and maintenance of an uniform system for the Legal Education of Students before admission to the Bar.

2nd. That the Standing Committee or Council be established, to consist of eight Benchers, two to be nominated by each of the Inns of Court, and of whom four shall be a Quorum. The Member shall remain in office for two years, and each Inn shall have power to fill up any vacancy that may occur in the number of its Nominees during that period. To this Council shall be entrusted the power and duty of superintending the whole subject of the Education of the Students, and of arranging and settling the details of the several measures which may be deemed necessary to be adopted.

3rd. That for the purpose of affording to the Students the means of obtaining instruction and guidance in their Legal studies, five Readerships or Professorships shall be established, which shall consist of the three Readerships already established by the Societies of the Middle Temple, the Inner Temple, and Gray's Inn, viz., on Jurisprudence and the Civil Law, the Law of Real Property, and the Common Law ; and also of a Reader on Equity, to be named by the Society of Lincoln's Inn, and of a Readership on Constitutional Law and Legal History, to be founded by the four Societies jointly. The Readers shall be appointed for a period of three years, and the Reader on Constitutional Law and Legal History shall be chosen by the Standing Council.

4th. That the duties of the Readers (subject to the regulation by the Standing Council), shall consist of the delivery of three Courses of Lectures in each year, of the formation of Classes of Students for the purpose of instruction in a more detailed and personal form than can be supplied by general Lectures, and of affording to Students generally, advice and directions for the conduct of their Professional Studies.

5th. That the four Inns of Court shall form a Common Fund by Annual contributions, the amounts of which shall be mutually agreed on, and out of which fund shall be drawn the Stipends to be assigned to the Readers, and such Studentships as shall from time to time be conferred upon Students.

6th. That the Lectures and Classes of the Reader shall be open to the Students of all the Societies without distinction, subject to the payment of such fees as are herein-after directed.

7th. That the Stipend of each Reader shall be Three Hundred Guineas per Annum, and such Stipends, and also the expense of the Studentships, shall be wholly defrayed out of the Common Fund, to be raised by the contributions of the several Societies.

8th. That each Student shall on admission pay a sum of Five Guineas, which shall entitle him to attend the Lectures of all the Readers.

9th. That the Fund composed of such last-mentioned Payments shall be annually divided amongst the five Readers equally, in addition to their Stipends.

10th. That (subject to Regulation by the Council), every Student shall be at liberty to attend such Classes as he may think necessary upon payment of a moderate fee to the Reader, but care shall be taken by the Council, that such fee shall not in any year exceed the sum of Three Guineas.

11th. That for the purposes of Education, the Legal year shall be considered as divided into three Terms or periods ; one commencing on the 1st of November, and ending on the 22nd December ; the second commencing on the 11th January, and ending on the 30th of March ; and the third commencing on the 15th of April, and ending on the 31st of July, subject to a deduction of the days intervening between the end of Easter and the beginning of Trinity Term.

12th. That no Student shall be eligible to be called to the Bar, who shall not either have attended during one whole year the Lectures of two of the Readers, or have satisfactorily passed a Public Examination.

13th. That Public Examinations shall be instituted to be held three times a year, for the Examination of all such Students as shall be desirous of being examined previously to being called to the Bar, and such Examinations shall be conducted by at least two Members of the Council jointly, with the five Readers ; and Certificates of having honourably passed such Examinations, shall be given to such Students as shall appear to the Examiners to be entitled thereto.

14th. That such Examinations shall be held in Michaelmas Term, Hilary Term, and Trinity Term.

15th. That as an inducement to Students to propose themselves for Examination, Studentships shall be founded of Fifty Guineas per Annum each, to continue for a period of three years ; and one such Studentship shall be conferred on the most distinguished Student at each Public Examination ; and further, the Examiners shall select and certify the names of three other Students who shall have passed the next best Examination ; and the Inns of Court to which such Students belong may, if desired, dispense with any terms not exceeding two that may remain to be kept by such Students previously to their being called to the Bar ; provided that the Examiners shall not be obliged to confer or grant any Studentship or Certificate unless they shall be of opinion that the Examination of the Students they select has been such as entitles them thereto.

16th. That at every call to the Bar, those Students who have passed a Public Examination and either obtained a Studentship or a Certificate of Honour shall take rank in seniority over all other Students who shall be called on the same day.

Statement from Gray's Inn—*cont.*

17th. That the Standing Council shall have power to grant dispensations to Students who shall have been prevented by any reasonable cause from complying with all the regulations as to the attendance on Lectures which shall from time to time be established.

On the 21st April 1852, the Benchers appointed two of their number Members of the Standing Committee or Council, established under Regulation "2" of the Report, and on the 26th May following they took into consideration and concurred in the following propositions of the Council, viz., "That the Steward or Under Treasurer of each Inn, upon receiving the payments required by the 8th and 10th regulations of the Report of the General Committee respectively, shall give to the Students a Ticket entitling him to admission to the Lectures, or to the Classes in respect of which such payment shall be made, as the case may be; and on his first attendance at any Lecture or Class, the Student shall inscribe his name in a Book to be provided for the Reader for that purpose.

The Sums to be contributed by the respective Inns of Court will be as follows:—

For Contingent Expenses a sum of Twenty Five Pounds from each Inn.

For the Readers and Studentships for the next year, Lincoln's Inn, Inner Temple, and Middle Temple, each 444*l.* 3*s.* 4*d.*, and Gray's Inn 400*l.*; of the two latter sums one Moiety to be paid to the Account of the Council with Messrs. Child and Co., on the 1st November next, and the remainder Moiety on the 1st May 1853.

The Sums of 25*l.* from each to be paid forthwith to the Account of the Council with Messrs. Child and Co.

The Fees paid to the Treasurer of the respective Inns of Court by Students to entitle them to attend the Lectures or Classes of the Readers to be placed by the Treasurers at the end of each Term to the Account of the Council with Messrs. Child and Co.

The following Rules touching the admission of Students to the Lectures, and the exemption of Irish Students, were approved, and Copies directed to be sent to the different Inns of Court:—

"The attention of the Council having been called to the position of Students entering at the Inns of Court solely with a view of being called to the Irish Bar, it appears to the Council that the regulations with reference to the attendance at Lectures and passing Examinations contained in the Report of the Committee on the subject of Legal Education, which has been confirmed by the several Inns of Court, are applicable only to Students who are desirous of being admitted to the English Bar, and that Students who have entered or shall enter themselves avowedly for the purpose of being called to the Irish Bar are not required to attend the Lectures or to make the payment of Five Guineas mentioned in the 8th Regulation.

"That in the Opinion of the Council, all such Students as shall enter with the avowed intention of being called to the Irish Bar may be allowed to attend the Lectures and Classes on making the payments provided by the 8th and 10th Regulations respectively.

"That all Students who have entered for the English Bar, and have not kept more than four Terms by the first day of Trinity Term, are liable to the payment of Five Guineas."

On the 26th May 1852, the Benchers received the following communication from the Council of Legal Education:—

"The Council have approved of the following Rules for the Guidance of the Readers in the delivery of their Public and Private Lectures, but they reserve the power of making any modification therein which may hereafter be found necessary.

"1. Each Reader shall deliver a Course of not less than Six Public Lectures in the Educational Term commencing on the 1st of November; a Course of not less than Nine Public Lectures in the Educational Term commencing on the 11th January; and a Course of not less than Twelve Public Lectures in the Educational Term commencing on the 15th day of April in each year.

"2. No Reader shall deliver more than One Public Lecture in any one week.

"3. Each Reader shall submit to the Council, one month before the commencement of each Course of Lectures, a Programme of the Public Lectures he proposes to deliver.

"4. Each Reader will be required to form a Class or Classes of Students for the purpose of carrying them through an entire Course of preparatory Education, by reading Books with the Class, by examining Students, and affording them personal instruction in a detailed form.

"5. Each Reader will be expected to devote not less than two hours a day on three days of every week in the three Educational Terms to the instruction of his Class or Classes, in conformity with the preceding Rule.

"6. It is the wish of the Council that all the Public Lectures be delivered in the Halls of the several Societies, between the hours of ten in the morning and four in the afternoon.

"7. The Council are desirous that a space of about two hours should be devoted by the Reader to the Students on the occasion of the delivery of each Public Lecture, in order that at the end of each Lecture sufficient time may be afforded to the Students for the purpose of conversing with the Reader on the subject of the Lecture, and obtaining his advice and directions for the conduct of their Studies.

"8. The Readers will arrange among themselves the hours for the attendance of their Classes, so as to prevent their interfering with each other.

"9. Proper Rooms for the reception of their respective Classes will be provided for the Readers.

Statement from Gray's Inn—*cont.*

"10. The Readers are desired to prepare a Scheme for the Public Examinations of the Students, and to submit the same to the Council on the 1st day of November next. Such Scheme must state the mode of Examination, and the Books and Subjects with which the Candidates for Studentships and Public Honours will be expected to be well acquainted.

"11. The first Public Examination will be held during the first three days of Hilary Term, 1853.

"12. The Stipends of the Lecturers of Three Hundred Guineas per Annum will commence on the 1st September next; the division of the Fees will be afterwards made at the discretion of the Council."

On the 11th June 1852, the Benchers elected Reginald Robert Walpole, Esquire, a Barrister of Lincoln's Inn, Reader of the Society on the Law of Real Property.

In Michaelmas Term 1852, the two following communications of the Council were concurred in by the Benchers, viz.—

"The Council deliberated on the construction to be put on the Tenth Rule, and directed that the words were to be construed as importing that on payment of Three Guineas the Student was admissible to attend all the Private Classes for one whole year; that is, for the Three Educational Terms next ensuing the date of his Card of Admission, and also that one entire sum of Three Guineas must be paid, whether the Student desires to attend the Private Classes of only one or two of the Readers, or all the Private Classes.

"Resolved, That as a mode of securing the bonâ fide attendance of Students at the Public Lectures, it be a direction to the Officers attending the Halls to shut the Door for the admission of Students at the expiration of a Quarter of an Hour after the time appointed for the commencement of each Public Lecture; and to have the names of the Students who are present at the conclusion of each Lecture entered in a Book."

On the 15th December in the same year the following resolution of the Council was concurred in by the Benchers, viz.—

"The direction of the Council having been sought as to the construction to be put upon the Twelfth Rule respecting attendance at Lectures, instruction was given by the Council, That Students were not to be required to attend the two Courses of Lectures during one and the same year, but might attend one Course for and during one year, and another Course for and during another year; and also, that for the purpose of attendance at Lectures the Educational Year was not to be considered as commencing always with Michaelmas Term, but that any three consecutive Terms were to be considered as making one whole year."

On the 1st of June 1853, the Benchers concurred in a Resolution of Council as to the Sums to be contributed by each Inn of Court for the current year similar to the Council's Resolution adopted on the 26th May 1852.

The Public Lectures are delivered in the Society's Dining Hall on Fridays, at two o'clock, and the Private Classes are held in the North Library on every Monday, Wednesday, and Friday, between a Quarter to Twelve and a Quarter to Two o'clock.

The annexed Printed Return of the Council shows the number of Students who attended the Public Lectures and Classes of the Reader of this Society during the Educational Year (1852–3).

It will be seen by the above Statement that Gray's Inn, under the Resolutions of the four Inns of Court in July 1846, provided a Lecturer upon the Law of Real Property from the 24th November 1847 to the time of the resignation of Mr. Lewis at the end of Trinity Term 1852, and that on the 11th June 1852 they elected Mr. Walpole to be the Reader on the Law of Real Property under the Resolutions of the four Inns of Court in the early part of that year, and that he is now actively discharging the Duties of such Reader.

As to the Library.

The Library of Gray's Inn consists of upwards of Seven Thousand Volumes, and is open to the use of the Members every day from Ten till Four o'clock, excepting the month of September, during which it is wholly closed. It is under the control of one of the Benchers who is annually elected "Master of the Library." He takes the general superintendence of the Library, subject to any Orders of the Bench, purchases New Books, and attends to all matters relating thereto, and in Hilary Term of every year he makes a Report to the Bench of the state of the Library.

A Librarian is in constant attendance to provide the Members with the Books they may call for.

The Treasurer respectfully informs Her Majesty's Commissioners that he is fully authorized by the Benchers of Gray's Inn, to afford them every necessary information and assistance to forward the objects of Inquiry directed by the Commission, and that he will be at all times ready to do so.

FRS. WHITMARSH,
Treasurer of Gray's Inn,
19th May 1854.

Accounts of Gray's Inn.

Returns furnished by the Honourable Society of Gray's Inn.

No. 1.

A Return showing the Annual Income and Expenditure of the Society.

Income.

	£	s.	d.	£	s.	d.
From ground Rents	825	0	0			
Pensions	42	0	0			
Rack Rents of House, Chambers, Houses, &c.	2,100	0	0			
Fines on Renewal and Assignments	803	0	0			
				3,770	0	0
Admissions	71	0	0			
Calls to the Bar	47	0	0			
Calls to the Bench	130	0	0			
Officers' Fees	59	0	0			
Interest upon Stock	87	0	0			
Incidental Money	60	0	0			
				454	0	0
Repairs, Amount paid by the Proprietary				283	0	0
Land Tax paid by the Proprietary	109	0	0			
Lighting, Watching, Insurance and County Rate do.	1,389	0	0			
				1,498	0	0
Commons				1,590	0	0
Preachers and Reader Rolls				354	0	0
Deposits for the Bar				600	0	0
Library Fund				60	0	0
Total Income				£8,609	0	0

Expenditure.

	£	s.	d.	£	s.	d.
For Salaries and Allowances (exclusive of Chapel Expenditure, Cook's Salary, Gatemen, and Waiters)				1,168	0	0
House, Incidental, and Contingent Expenses				544	0	0
Repairs, &c.				805	0	0
Rates and Assessments				2,069	0	0
Commons				1,865	0	0
Chapel Expenditure, Salaries, &c.				641	0	0
Deposits returned				700	0	0
Library Expenditure				100	0	0
				7,892	0	0
Contributions by the Society towards Legal Education				425	0	0
Total Expenditure				£8,317	0	0
Excess of Income over Expenditure (yearly)				292	0	0
				£8,609	0	0

No. 2.

A Return showing the Annual Income and Expenditure of the Society.

Income.

	£	s.	d.	Actual Charge. £	s.	d.
From Ground Rents	825	0	0			
Pensions	42	0	0			
Rack Rents of Houses, Chambers, Houses, &c.	2,100	0	0			
Fines on Renewal, &c., Assignment	803	0	0			
				3,770	0	0
Admissions (as in 1853)	71	0	0			
Calls to the Bar (three years)	47	0	0			
Calls to the Bench (seven years)	130	0	0			
Officers' Fees (three years)	59	0	0			
Interest upon Stock (present)	87	0	0			
Incidental Money (three years)	60	0	0			
				454	0	0
Repairs; amount paid by the Proprietary (four years)				283	0	0
Land Tax paid by the Proprietary	109	0	0			
Lighting, Watching, Insurance, and County Rate do.	1,389	0	0			
				1,498	0	0
Castings into Commons (seven years)	870	0	0			
Dining Commons (five years)	500	0	0			
Absent do. (five years)	220	0	0			
				1,590	0	0
Preachers' and Readers' Rolls (seven years)				354	0	0
Deposits for the Bar (two years)				600	0	0
Library Fund (three years)				60	0	0

Expenditure.

For Salaries and Allowances (exclusive of Chapel Expenditure, Cook's Salary, Gatemen, and Waiters.)

		£	£	s.	d.
Actual.	Steward	350			
	Under Steward	150			
	Clerk	60			
	Second Butler	100			
	Third do.	70			
	Head Porter	40			
	Head Keeper	40			
	Scavenger	77			
	Warder	52			
	Gardener	52			
	Assistant Gardener	30			
	Sweeper	10			
	Surveyor	100			
	Pensions	37			
			1,168	0	0
House and Incidental Contingent Expenses:					
Five Years.	Sundry Disbursements	67			
	Washing	8			
	Turner	41			
	Silversmith	3			
	Apothecary	1			
	Upholsterer	17			
	Undertaker	4			
	Robemaker	2			
	Tallow Chandler	26			
	Coal Merchant	58			
	Charcoal, &c.	18			
	Winding Clocks	8			
	Chimneys	9			
	Nurseryman	23			
	Herald Painter	7			
	Stationer	83			
	Do. Postages	19			
	Do. Receipt Stamps	25			
	Newspaper	4			
	Christmas Boxes, Charitable Allowances, and Donations	104			
	Law Expenses	17			
			544	0	0
Repairs, &c.:					
Four Years.	Carpenter	70			
	Painter	325			
	Bricklayer	223			
	Pavior	7			
	Allowance to Tenants	47			
	Mason	6			
	Smith	58			
	Plumber	50			
	Slater	7			
	Bench Chairs	7			
	Fire Engines	5			
			805	0	0

Accounts of Gray's Inn—*cont.*

Expenditure—cont.

		£	£	s.	d.
Seven Years.	Rates and Assessments:				
	Police	337			
	Land Tax	145			
	Assessed Taxes	71			
	Property Tax	84			
	County Rate	150			
	Paving Rate	44			
	Water Rate	45			
	Gas	246			
	Light, Lamps	256			
	Sewers Rate	98			
	Insurances	360			
	Overseer's Expenses	8			
	Returning Officer	7			
	Gatemen	218			
			2,069	0	0
Five Years.	Commons:				
	Cook's Salary	80			
	Do. Commons	932			
	Grocer	20			
	Fruiterer	19			
	Cream, &c.	28			
	Wine	550			
	Ale and Beer	13			
	Washing (Hall)	34			
	Hall Linen	9			
	Waiters	162			
	Confectionery	7			
	Glass, &c.	7			
	Cutlery and Knife Machine	4			
			1,865	0	0
	Chapel Expenditure (Salaries, &c.):				
	Preacher	£210 0 0			
	Reader	150 0 0			
	Assistant do.	100 0 0			
	Chapel Clerk	20 0 0			
	Choir	73 13 0			
	Organist	40 0 0			
	Gallery Keeper	10 0 0			
	Pew Opener	3 6 2			
	Hire and Tuning Organ	25 0 0			
	Washing Surplices	5 8 0			
	Organ Blower	4 0 0			
			641	0	0
	Deposits returned (as per order)		700	0	0
	Library Expenditure (as per order)		100	0	0

No. 3.

A Return of the Property of the Society in Chambers, Houses, &c.

In Chambers.

	£	s.	d.	Annual Value to the Society. £	s.	d.
Nine sets of Chambers, denominated Bench Chambers, held by the nine Senior Benchers during life upon certain Conditions.						
254 sets of Chambers, called Proprietary Chambers, held by Members of the Society upon terms of Twenty One years, renewable every Seven years,						
Yielding in Ground Rents annually	825	0	0			
,, Pensions ,,	42	0	0			
,, Renewal Fines (average of seven years)	773	0	0			
,, Assignments ,,	30	0	0			
				1,670	0	0
48 sets of Chambers, termed House Chambers, yielding yearly	1,202	6	0			
Total number of Chambers, 311.						

In Houses.

7 Houses within the Inn, yielding yearly	367	10	0			
4 Houses without the Inn ,,	510	0	0			
Total number of Houses, 11.						

Ground.

One piece of Ground at the back of West side of Gray's Inn Place, yielding yearly	16	0	0			
To the above may be added Rent or Acknowledgment paid to the Society, under Deeds of Covenant for permissions of Entrance, &c. to the Inn from Houses abutting on the Inn, yielding yearly	4	4	0			
				2,100	0	0
Total Revenue of the Inn arising from Houses, Chambers, &c., yearly				£3,770	0	0

No. 4.

A RETURN of the Credits and Liabilities of the Society.

Credits.	£	s.	d.	*Liabilities.*	£	s.	d.
By 3,000*l.* Stock, 3 per Cent. consolidated Bank Annuities, estimated at 91½ (the price quoted on the 15th June 1854)	2,745	0	0	To Deposits for the Bar made by Students, remaining in the hands of the Society	1,900	0	0
By recoverable Debts (not included in any calculation of average receipts contained in Return No. 1)	275	0	0	To Bills for Repairs, &c., of 1853, remaining unpaid	750	0	0
				Balance to the Society's Credit	370	0	0
	3,020	0	0		3,020	0	0

No. 5.

A RETURN showing the Amounts payable by a Student on Admission, Call to the Bar, &c. and also to the Appropriation of the several Amounts.

Amounts payable.	£	s.	d.	*Appropriation.*	£	s.	d.	£	s.	d.
				To the House	5	18	9			
				Do.	0	2	6			
				To the Council of Legal Education	5	5	0			
				Admission Stamp	25	0	0			
				Bond Stamp	0	1	3			
				Steward's Fee	1	2	6			
On General Admission	37	10	0					37	10	0
				To the Mess (a bottle of Wine)	0	5	0			
				To the Officers	0	17	6			
On Admission into Commons	1	2	6					1	2	6
				To the House towards the Disbursements for Commons	16	16	0			
				Do. towards Preacher's Roll	3	0	0			
Commons Bills for 12 Terms	19	16	0					19	16	0
				To the House	3	1	3			
				To Officers and Servants	0	11	3			
Exercises (not now performed)	3	12	6					3	12	6
				To the House (in all)	14	13	6			
				The Officers and Servants	7	2	10			
				Stamp on Call	50	0	0			
				Bond Stamp	0	2	6			
On Call to the Bar	71	18	10					71	18	10
	133	19	10					133	19	10

No. 6.

A RETURN showing the Amounts appropriated and expended on account of the Library for Twenty Years, from 1834 to 1853 (both Years inclusive).

Appropriated. Year	£	s.	d.	*Expended.* Year	£	s.	d.
1834	122	17	0	1834	250	17	9
1835	160	13	0	1835	104	18	9
1836	132	6	0	1836	158	16	5
1837	148	1	0	1837	140	0	9
1838	217	17	0	1838	127	15	9
1839	195	6	0	1839	109	17	4
1840	166	19	0	1840	77	0	0
1841	110	5	0	1841	149	12	0
1842	132	6	0	1842	116	4	6
1843	85	1	0	1843	122	12	0
1844	119	4	0	1844	111	18	3

Accounts of Gray's Inn—*cont.*

Year.	*Appropriated*—cont.	£	s.	d.
1845		94	10	0
1846		75	12	0
1847		88	4	0
1848		81	18	0
1849		75	12	0
1850		73	13	0
1851		66	3	0
1852		75	12	0
1853		40	19	0
		2,263	8	0
Amount expended beyond appropriation		69	12	0
		£2,333	0	0

Year.	*Expended*—cont.	£	s.	d.
1845		141	13	9
1846		108	2	9
1847		51	17	2
1848		66	2	4
1849		62	5	9
1850		56	6	8
1851		101	7	1
1852		114	7	10
1853		71	19	11
Ib. (bill not yet paid)		89	3	3
		£2,333	0	0

No. 7.

A RETURN showing the Amounts received on account of the Chapel, and the Expenditure in respect thereof (including the Stipends of the Clergymen), for Four Years, from 1850 to 1853 (both Years inclusive).

Received.	£	s.	d.
From Members being Holders of Chambers, for Doctors and Under Rolls, for four years	912	0	0
From Members keeping Commons, for Preacher's Roll, for the like period	504	0	0
	1,416	0	0
Expended over Receipt	1,025	0	0
	£2,441	0	0

Expended.	£	s.	d.
On account of the Chapel (comprising every Incidental Charge, for four years)	2,441	0	0
	£2,441	0	0

No. 8.

A RETURN showing the Situation and Rental of the Society's Bench Chambers, held by the Nine Senior Benches respectively.

Situation.	Annual Rent. £	s.	d.
Gray's Inn Square:			
No. 2, Ground floor south	100	0	0
No. 3, Two-pair north	57	0	0
No. 6, Ground floor east	65	0	0
No. 7, Two-pair east	42	0	0
No. 9, Two-pair east	55	0	0

Situation.	Per Annum. £	s.	d.
South Square:			
No. 2, One-pair east	58	0	0
No. 3, One-pair west	45	0	0
No. 4, Ground floor east	70	0	0
No. 4, Two-pair west	40	0	0

No. 9.

A RETURN giving a detailed Account of the Chapel Expenses for the past Year (1853).

	£	s.	d.
Preacher	210	0	0
Reader	150	0	0
Assistant Reader	100	0	0
Chapel Clerk	20	0	0
Choir	73	13	0
Organist	40	0	0
Organ Blower	4	0	0
Ladies' Gallery Keeper	10	0	0
Pew Opening	3	6	2
Hire and Tuning of Organ	25	0	0
Washing Surplices	5	8	0
Total	£641	7	2

N.B.—The above does not include a sum of 8*l.* 18*s.* 6*d.* expended for Bibles and Prayer Books, the same being extraordinary.

Accounts of Gray's Inn—*cont.*

No. 10.

A RETURN showing the Amounts paid by the Society for Salaries and Allowances to their Servants, also the Amounts of Fees received by the Officers and Servants.

	Salaries and Allowances paid by the Society.	Total Amount received by the Officers and Servants (not payable out of the Society's Funds.)	Total Salaries, Allowances, and Fees.
	£ s. d.	£ s. d.	£ s. d.
Treasurer (for Certificates of Terms, &c. about)	—	6 6 0	6 6 0
CHAPEL.			
Preacher	210 0 0	—	210 0 0
Reader and Afternoon Lecturer	150 0 0	—	150 0 0
Assistant Clergyman	100 0 0	—	100 0 0
Chapel Clerk	20 0 0	—	20 0 0
Choir (including all Expenses)	74 0 0	—	74 0 0
Organist	40 0 0	—	40 0 0
Organ-Blower	4 0 0	—	4 0 0
Ladies' Gallery Pew Opener	10 0 0	—	10 0 0
Pew-Opening	3 0 0	—	3 0 0
HALL.			
Steward and Chief Butler	208 0 0	52 0 0	402 10 4
Ditto (Allowances)	142 10 4		
Under Steward and Chief Clerk	120 0 0	—	151 5 0
Ditto (Allowances)	31 5 0		
Second or Junior Clerk	60 0 0	—	60 0 0
Second Butler	100 0 0	—	100 0 0
Librarian and Third Butler	70 0 0	2 4 0	72 4 0
Head Porter	40 0 0	1 6 0	41 6 0
Housekeeper	40 0 0	—	40 0 0
Hall Keeper and Scavenger	52 10 0	18 10 0	96 0 0
Ditto (Allowances)	25 0 0		
Warder (Chief)	52 0 0	—	52 0 0
Second Warder	36 8 0	—	36 8 0
Third Warder	36 8 0	—	36 8 0
Gardener	52 0 0	—	52 0 0
Assistant Gardener (about)	30 0 0	—	30 0 0
Gatekeepers at Night, &c. (about 12) at 18*l.* each	216 0 0	—	216 0 0
Sweeper of Pavement in Gray's Inn Lane	10 0 0	—	10 0 0
Cook	80 0 0	2 9 0	82 9 0
Hall Waiters (seven at 12*l.* 12*s.*, one at 16*l.* 16*s.*), one Lamp Trimmer at 12*l.* 12*s.*	117 12 0	—	117 12 0
Bench Waiter	12 12 0	—	12 12 0
Ditto Allowance as Washpot	4 14 0	—	4 14 0
Knife Cleaner	16 0 0	—	16 0 0
Extra Waiters, &c.	15 10 0	—	15 10 0
Surveyor	25 0 0	—	25 0 0
Total Salaries and Allowances paid by Society. Total Fees (not payable out of Society's funds)	2,204 9 4	82 15 0	2,287 4 4

No. 11.

A RETURN showing the Number of Admissions, Calls to the Bar, and Calls to the Bench, in each Year, from 1847 to 1853 (both inclusive). Also the Average Number of Benchers and Messes dining daily in the Hall during Term time.

Return of Number of Admissions, &c. to Gray's Inn, from 1847 to 1853.

Year.	Admission.	Calls to the Bar.	Calls to the Bench.
1847	37	14	3
1848	22	9	—
1849	18	9	—
1850	15	12	2
1851	23	9	1
1852	23	8	—
1853	12	4	—

Average number of Benchers dining daily in Term time - - - 8
Average number of Messes dining daily in Term time - - - 7

Accounts of Gray's Inn—*cont.*

A RETURN showing the Annual Income and Expenditure of the Society for the Year 1854.

Income.

Received—	£	s.	d.	£	s.	d.
For Ground Rents	835	4	7			
Pensions	42	0	0			
Rackrents	2,105	16	4			
Fines on Renewal	622	0	0			
Do. on Assignments	30	0	0			
				3,635	0	11
For Admissions, Calls to the Bar, Calls to the Bench, Officers' Fees, Interest upon Stock, and Incidental Money				914	14	11
				4,549	15	10
For Repairs				146	14	6
For Land Tax, Lamps, Watching, Insurance, and County Rate				1,506	2	0
For Castings into Commons, Dining Commons, and Absent Commons				1,538	8	6
For Preacher's and Reader's Rolls				320	5	10
For Deposits for the Bar				200	0	0
For the Library Fund				81	18	0
Excess of Expenditure over Income				374	4	7
				£8,717	9	3

Expenditure.

Paid—	£	s.	d.	£	s.	d.
For Salaries and Allowances (exclusive of Salaries of Chapel Officers, and the Expenses of Chapel, Butlers, Cook, and Waiters' Salaries, and the Expenditure for Commons, Salaries of Gatemen)	1,082	3	5			
For House and Incidental Expenses (including Charitable Donations and Allowances)	688	16	10			
For the Purposes of Legal Education	450	0	0			
				2,221	0	3
For Repairs (including Allowances to Tenants)				731	8	11
For Rates and Assessments (including Salaries of Gatemen)				2,307	5	9
For Expenses of Commons (including Wine, Butlers, Cook, Hall-keeper and Waiters' Salaries, Washing Linen, Glass, Cutlery, Lighting, Fuel, and all incidental Expenses)				1,925	19	3
For Expenses of Chapel (including Salaries of Clergymen and other Officers, Firing, Lighting, and the Purchase of Altar Cloth, &c.)				721	10	7
For Deposits returned				700	0	0
For Library Expenditure				110	4	6
				£8,717	9	3

	£	s.	d.
Balance of Accounts at Christmas 1853	948	0	4
Deduct excess of Expenditure over Income, 1854	374	4	7
Balance of Accounts at Christmas 1854	£573	15	9

A RETURN of the Annual Expenses incidental to the Hall and Dinners, (Bench, Bar, and Students,) including the Establishment requisite for that purpose.

	£	s.	d.
Salaries and Wages.			
One Butler at (say) per Annum — He is also Verger of the Chapel, his Salary being 100*l.* per Annum for both duties. 66*l.* 13*s.* 4*d.* may be considered the due proportion of Salary for Butlership.	66	13	4
One do. per Annum	25	0	0
Cook do. — The Salaries of these Officers were fixed last year upon their respective appointments.	84	0	0
Hall Keeper at (say) per Annum — He is also Chapel Keeper, at 50*l.* for both duties; the proportion of his Salary as Hall Keeper may be considered to be 33*l.* 6*s.* 8*d.*	33	6	8
(*continued.*)			
Eight regular Waiters, at 12*l.* 12*s.* per ann.	100	12	0
One Knife Cleaner — do.	16	0	0
Occasional Waiters (about) do.	13	8	0
Expenses of Commons.			
Cooks' Bills for Commons, about	900	0	0
Wine Merchant, about	480	0	0
Disbursements for Grocery, Fruit, Confectionery, Cream, Bread, Butter, Beer, &c. about	85	0	0
Disbursements for Linen, Glass, Cutlery and Washing, about — Last year's Expenditure taken as a datum.	60	0	0
Disbursements for Lighting and Firing, about — As nearly as can be estimated.	65	0	0
	£1,929	0	0

Return of Number of Students admitted to Gray's Inn, from 1849 to 1853.

A RETURN of the Number of Students admitted of Gray's Inn from the Year 1849 to 1853 (both years inclusive), made pursuant to Order of Her Majesty's Commissioners for Inquiry respecting the Inns of Court.

Year.	No.
1849	18
1850	15
1851	23
1852	23
1853	12

BOYCE COMBE,
Treasurer.

A Return showing the Numbers dining in the Hall, including Benchers, Barristers, and Students, in the Years 1852, 1853, and 1854. Return of Numbers dining in Hall of Gray's Inn, in 1852, 1853, and 1854.

Year.	Hilary Term.	Easter Term.	Trinity Term.	Michaelmas Term.	Total.
1852	804	962	968	890	3,624
1853	811	973	821	857	3,462
1854	773	822	832	778	3,205

Year.	Benchers.	Barristers.	Students.	Total.
1852	739	1,424	1,461	3,624
1853	700	1,398	1,364	3,462
1854	712	1,168	1,325	3,025

Clement's Inn.

Accounts of Clement's Inn.

Average Annual Receipts for Seven Years immediately before and up to the 1st day of Trinity Term, 1847, viz.—

	£	s.	d.	£	s.	d.
Rents	1,151	14	9			
Dues	72	18	7			
				1,224	13	4
Average Annual Payments for the like period, viz.—						
Servants: Head Porter and Butler, under Porter and Watchman	155	17	0			
Commons (including Wine)	174	1	7			
Coals	20	2	1			
Insurance	43	8	8			
Repairs and Improvements	289	13	7			
Loans paid off	174	18	4			
Interest, Rates, Taxes, and Outgoings	391	5	0			
Charities	18	15	1			
Salaries	94	6	10			
In Part of Members' Bonds, Receipt Stamps, and Stationery	23	5	0			
Expenses of Distress and other Extras	10	1	3			
				1,395	14	5
Average annual receipts for the next succeeding Seven Years, viz., up to 1st day of Trinity Term, 1854;—						
Rents	1,173	15	5			
Dues	82	11	11			
				1,256	7	4
Average annual expenditure within and up to the like period, of which no Analysis has yet been made, but the sums for Repairs and Improvements, and Interest on further Monies borrowed on Mortgage to pay for same, have been necessarily and unavoidably increased, and the Charges for Commons and other Items of Expenditure reduced; total				1,672	2	3

The Society owe at present, 4,200*l.* on Mortgage. Seven Sets of empty Chambers.

N.B.—Since Lincoln's Inn Fields has so many Chambers, the Society have been unable to let all their Chambers.

Answer to the Circular of Her Majesty's Commissioners from the Principal of the Honourable Society of Clifford's Inn.

Answer to Circular from Clifford's Inn.

Clifford's Inn, June 19, 1854.

Sir,

As Principal of the Society of Clifford's Inn, I beg leave to inform Her Majesty's Commissioners for inquiring into the Arrangements of the Inns of Court and Chancery, that no Lectures are now delivered nor Examinations take place in this Inn, nor is there any Library immediately connected with it. But in returning this answer to the inquiries of the Commissioners, it may be proper to add, that in the year 1823 many of the members of Clifford's Inn and the other Inns of Chancery, with other Attorneys and Solicitors, commenced an Institution in Chancery Lane, comprising an extensive Law Library, and in which various Courses of Lectures have been regularly delivered for upwards of twenty years; that such

Answer to Circular from Clifford's Inn—*cont.*

Society was incorporated by Royal Charter in the year 1831; and the governing body of the Institution is empowered, under Rules and Orders of Court, to examine all Articled Clerks, before admission on the Roll of Attorneys and Solicitors.

I have the honour, to be,
Sir,
Your very obedient servant,
WM. HY. ALLEN,
Principal.

Julius Talbot Airey, Esq.,
Secretary to the Inns of Courts
of Law Inquiry Commission,
32, Abingdon Street, Westminster.

Answer to Circular from Lyon's Inn.

ANSWER to the Circular of Her Majesty's Commissioners from a Member of the Honourable Society of LYON'S INN.

Guildhall Yard, May 30, 1854.

SIR,

WITH reference to your favour of the 12th May instant, addressed to the Principal of Lyon's Inn, I have to inform you that no such Officer exists.

There are not any "Arrangements for promoting the Study of Laws and Jurisprudence."

There are not any Lectures or Examinations; nor is there any Library.

Yours faithfully,
TIMOTHY TYRRELL.

J. T. Airey, Esq., Secretary,
Inns of Courts of Law Inquiry Commission.

Answer to Circular from New Inn.

ANSWER to the Circular of Her Majesty's Commissioners from the Treasurer of the Honourable Society of NEW INN.

Pension Room, New Inn, May 17, 1854.

SIR,

I HAVE the honour, as Treasurer of this Society, to acknowledge the receipt of your favour of the 12th instant on behalf of Her Majesty's Commissioners for inquiring into the arrangements of the Inns of Court and Chancery for promoting the Study of the Law and Jurisprudence.

In reply I beg leave respectfully to acquaint you that there are no existing arrangements in this Society for promoting the study of the Law and Jurisprudence.

The Society of the Middle Temple have the right to use the Hall of this Inn for Moots, Exercises, and Readings, and so far as regards Readings, was regularly acted upon, until within the last few years; at which Readings many of the Members of this Society attended; but for reasons, with which I am unacquainted, such Readings have been discontinued, and there are now no Lectures or Examinations, provided for by this Inn, nor is there any Library attached to it.

I have the honour to be,
Sir,
Your most obedient servant,
S. B. JACKSON.

To J. Talbot Airey, Esq.,
Secretary to the Inns of Courts of Law Inquiry Commission.

Answer to Circular from Furnival's Inn.

ANSWER to the Circular of Her Majesty's Commissioners from the Receiver of Rents at FURNIVAL'S INN.

May 13, 1854.

SIR,

IN reply to your application from the Inns of Court Inquiry Commission as to Furnival's Inn, I beg to inform you this is not an Inn of Court, and therefore cannot give any information upon the various subjects named.

I am, Sir,
Your obedient servant,
W. WOODWARD.

Julius Talbot Airey, Esq.

Answer to Circular from Barnard's Inn.

ANSWER to the Circular of Her Majesty's Commissioners from the Secretary to the Honourable Society of BARNARD'S INN.

Barnard's Inn, May 30, 1854.

SIR,

As Secretary to the Society of Barnard's Inn, and by their direction, I have the honour to acknowledge the receipt of your letter of the 12th instant. With reference to the request which you conveyed to them from Her Majesty's Commissioners for inquiring into the arrangements in the Inns of Court and Chancery for promoting the Study of the Law and Jurisprudence, that the Society of Barnard's Inn will assist the Commissioners in their Inquiry, I am directed to state that the Society of Barnard's Inn will readily afford to the Commissioners every information in their power in aid of the objects of the Commissioners.

As regards the particular inquiries contained in your letter, as to the Lectures or Examinations, if any, provided for by Barnard's Inn, and the existence or non-existence of a

Answer to Circular from Barnard's Inn—*cont.*

Library, I have to state that there are not, and have not, as far as we are able to ascertain, been during either this or the last preceding century any Lectures or Examinations in the hall of Barnard's Inn, and that there is not any Library.

I have the honour to be,
Sir,
Your obedient humble servant,
CHAS. EDWD. HUNT.

To Julius Talbot Airey, Esq.,
Secretary, Inns of Court Inquiry Commissioners.

Further Anwers from Barnard's Inn.

[A subsequent Communication from the Secretary of Barnard's Inn.]

SIR, Barnard's Inn, August 23, 1854.

IN giving my Evidence before the Commissioners for inquiring into the Inns of Court and Chancery, I think I omitted to mention the amount of the Debt owing by the Society, of Barnard's Inn; and I am accordingly directed to state, for the information of the Commissioners, that there is a standing Debt of 1,200*l.* for which the Society pays Interest.

I have the honour to be,
Sir,
Your most obedient servant,
CHAS. EDWD. HUNT,
Secretary to the Society of Barnard's Inn.

To Julius Talbot Airey, Esq.,
Secretary, &c. &c., Inns of Court Inquiry Commission.

Answer to Circular from Staple Inn.

Inns of Courts of Law Inquiry Commission.

STAPLE INN.

THIS Inn was anciently an Inn of Chancery, an auxiliary to the Inns of Court, Barristers' Attorneys and Solicitors being obliged to be admitted into the one or other before they could practise.

In the time of Philip and Mary, the privilege of the Inn of Chancery in respect to its Members being called to the Bar was abated, and was further curtailed in the time of Elizabeth. In the time of Charles the First the calling Students to the Bar was assumed and exercised solely by the Inns of Court, and no Attorney or Solicitor was allowed to be admitted of any such Inn of Court; and although it is understood that at or about the commencement of the Reign of Queen Ann it was required by the Courts of Common Law that Attornies and Solicitors should be Members of one of such Inns or Inn of Chancery before or at the time of their admission on the Rolls; yet, subsequently, it ceased to be required that any Attorney or Solicitor should be admitted of any Inn of Chancery to authorize his practising as such Attorney or Solicitor, but before his admission on the Rolls as Attorney or Solicitor he was to be and is examined as to his fitness and capacity in that respect by Rules emanating under Acts of Parliament; consequently the former or ancient privilege or professional advantage to a Member of the Inn of Chancery ceased, as did also such Inn, as an Inn of Chancery, as part of the legal ολιγαρχια, and Staple Inn became and continues to be a private Society, composed of gentlemen of the Legal Profession (but not confined solely to Attorneys or Solicitors), and having their own separate Rules and Regulations. The Members meet periodically about twenty-eight times in the year for personal communication and intelligence with each other as to the legal events of the time and their incidents.

The Society of Staple Inn, from the preceding circumstances, has not any Students, and, consequently, has not occasion for any Lectures or Library. Such Lectures and Library are most amply provided in the Neighbourhood by the Incorporated Law Institution, where Legal Students attend the Lectures, and have access to that Institution's most extensive and valuable Library of Legal, Scientific, and other Books, and such as no small Society could either afford or attempt to procure.

A. S. THORNDIKE,
Principal.

27th May, 1855.

The Reply of Vice-Chancellor Stuart to Queries.

THE Reply of the Vice-Chancellor STUART to the Queries of the Inns of Court Commission.

The questions are framed in a spirit of restraint of the free pursuit of the knowledge and accomplishments necessary for a proper Legal Education.

It ought not to be forgotten that the study of the Law should not commence till the age of manhood, and until after an education in Classical learning, and in such a degree of moral and physical science as is proper for every gentleman.

To a mind so prepared and with matured faculties, the dignity and respect due to it are not consulted by even an invitation, much less a compulsion, to enter upon the sort of drilling and discipline which seems indicated in the system of Examination mentioned in the questions.

The Reply of Vice-Chancellor Stuart—*cont.*

The mere exercise of memory and diligence may enable a Student of Law to pass a brilliant Examination, but with all that he may be wholly incapable of exercising the duties of so important a Profession with advantage to himself or to the public.

The high point to which Examination for University Honours has been carried, results too often in injuring instead of improving the higher faculties, and the means of success and distinction in after life.

More enlightened and liberal views on this subject seem now to actuate the public mind.

The opinions of the most wise and observant of modern sages concur in condemning this system of Examination.

It forces or induces earnest Students to load their minds and fetter their pursuit of knowledge in order to prepare for Examination on certain prescribed subjects, instead of pursuing that course of thought, investigation, and reflection, which is necessary for any satisfactory result.

Sir Benjamin Brodie, in the valuable Psychological Essays which he has recently published, states the opinion of the highest authorities concurring with his own in reprobating this system. He says, that among those whose intellect is of the higher order, there are many who would ultimately accomplish greater things if they were left more to their own meditations and to pursue their own trains of study and reflection.

Lord Coke says that reading, hearing, conference, meditation, and recordation are necessary to the study of the Common Law, but that an orderly observation in writing is most requisite of them all.

Opportunities for all these should be afforded by the Inns of Court.

A well-digested Course of Lectures by a Lawyer, with qualifications for that duty sufficiently eminent to attract a concourse of Students, is of high importance.

But the Profession of the Law is one exercised for the most part in the face of the public, and with such opportunities of testing the proficiency and capacity as make all private Examinations and the conferring Degrees by the Inns of Court of little avail to those who may obtain them, and of no value before that force of public opinion which will reject all tests but its own.

The Student who might fairly think he has opened the avenue to distinction by a successful Examination, if he attains that success by mere effort of memory and diligence, will make a poor figure compared with him of active and thoughtful intellect who disdained to submit to the ignoble drudgery, and pursued a course of reading, hearing, and reflection suitable to the inclination of his mother wit, and unfettered by the requisitions of an Examination.

Lectures by persons really qualified to deliver them with profit to the Student, and access to a good Library, are things of the first importance.

The Inns of Court have hitherto blameably failed in affording to the Student means of instruction from Lectures. This is attributable to a defect in the constitution of the governing bodies.

The multitudinous and indiscriminate creation of Queen's Counsel has made the number of Benchers in the two most considerable Inns of Court too unwieldy for the proper government of those Societies.

It has diminished the responsibility, and the consequence has been especially unfortunate as to all matters relating to Education.

The Student who has not the opportunity, during at least several years of his studies for the Bar, of attending the Chambers of a Conveyancer and a Counsel at the Chancery and Common Law Bar, in considerable practice, cannot expect to be properly qualified.

The notion that any means of Education can be substituted which shall dispense with this attendance, is not likely, I think, to be entertained by any person of experience or judgment in such matters.

January 5, 1855. JOHN STUART, V. C.

The Answers of the Honourable Mr. Baron Martin to Queries.

The ANSWERS of the Honourable Mr. Baron MARTIN to the Queries sent to him by Her Majesty's Commissioners on the 1st of December 1854.

General.

QUERIES.	REPLIES.
Numbers—1, 2, 3, 4, 5, 6, 8, 9, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 27, 28, 33, 34.	These are crossed, His Lordship stating, "I have either no knowledge or have formed no opinion on the subjects to which these Queries relate, or to any of the others which I have struck through."

Chamber Study.

Queries.	*Replies.*
No. 7. Generally, what is your opinion of the expediency of attending the Chambers of a practising Barrister (Special Pleader, Chancery Draughtsman, or Conveyancer), as a mode of preparation for the Bar? And can you suggest any method of study that might be advantageously substituted for it?	(7.) "Under the old system of Pleading and Practice, the attendance at the Chambers of a practising Barrister or Special Pleader was, in my opinion, essential to early success at the Common Law Bar. I, however, think that under the present system an intelligent and industrious man might dispense with it. I am not competent to give an opinion as to the preparation for the Chancery Bar or Conveyancing."
No. 10. Upon the supposition of a three years' course of preparation for the Bar, do you think that a Student of ordinary diligence and ability could command time enough for a beneficial study of the Civil Law, General Jurisprudence, International Law, or of any other branches of Legal acquirement but that to which he proposes to devote himself at the Bar?	(10.) "I think not."
No. 11. Is it your opinion that such a Course of Study would require such an extension of the time and increase of the expense of preparation for the Bar, as to exclude the poorer class of Students?	(11.) "It is my opinion that if three years be the time supposed to be allotted for preparation for the Bar, a well-educated young man, of the ordinary ability and talent, would be fully occupied during the whole of it in learning the elementary part of the Profession."
No. 12. Do you think that within the three years a useful knowledge of General Jurisprudence might be acquired, consistently with a due attention to the principal subject of study? Or, do you think it inexpedient to treat such acquirements as the subjects of educational instruction, and that it would be better left to the unfettered discretion of the student?	(12.) "As to the first Question, I think not; as to the second, I have formed no opinion."

Examinations.

No. 14. Have you formed any opinion as to the expediency of compulsory Examinations?	(14.) "I have, and I think them not expedient. I believe a considerable number of gentlemen have been and are called to the Bar, and who have acquired considerable knowledge of the Law and of the principles which govern the Judges in its administration, without intending to follow the Profession as the means of obtaining a livelihood, and that such persons in general probably could not, and certainly would not, undergo compulsory Examinations. As it is my opinion that great benefit to the public has arisen from such persons coming to the Bar, and that compulsory Examinations would be an impediment to their doing so, I think that such Examinations would not be expedient; indeed, I think they would be mischievous. If gentlemen coming to the Bar choose voluntarily to submit to an Examination, there can be no objection; but compulsory Examination I think highly objectionable. It may be otherwise in the Profession of Divinity or Medicine or Surgery, but a person really incompetent to do business in the Law either at Chambers or in Court would be very soon found out, if he ever did obtain any practice."

Compulsory Examinations for the Bar.

Queries.	*Replies.*
No. 23. If on the one hand you should be of opinion that compulsory Examinations might deter many men from the study of the Law, might not, on the other hand, that disadvantage be compensated by opening an avenue to distinction to those who might submit to them, by raising the character of the rising practitioners, and increasing the confidence of the public in the Profession generally?	(23.) "I think not. It is my opinion that answering at an Examination would afford a very slight test of the capacity to transact real business, and that the confidence of the public is given to the persons whom they see and hear of doing business effectively and well."
No. 26. Or is it your opinion that no acquirements beyond those which belong to a liberal education ought to be demanded for admission at an Inn of Court to study for the Bar?	(26.) "This is my opinion."

Degrees.

No. 29. Would the prospect of Honours be likely to stimulate the exertions of Students of ability and ambition, while it left the road open to men of more moderate capacities?	(29.) "I think it would. There is no objection, that I am aware of, to Honours being given to such persons as choose voluntarily to contest for them."
No. 30. Are you of opinion that the Examination requisite to obtain an ordinary Degree would have the effect of excluding men of ordinary ability, or even those who might not thereafter desire to practise at the Bar?	(30.) "I think any compulsory examination would."
No. 31. Might not the subjects and the severity of the Examinations be so tempered as to render an ordinary Degree obtainable in nearly the same time, and at the same expense, as under the present system?	(31.) "I very much doubt it."

Time and Expense of Study.

No. 32. Before the introduction of the present system of Legal Education had the Student any guide as to the course of study to be pursued?	(32.) "I think he had."

"SAMUEL MARTIN."

Dec. 30, 1854. Eaton Place.

Paper sent in by Dr. Geldart, Vice Chancellor of Cambridge.

PAPER sent in by Dr. GELDART, Vice Chancellor of Cambridge, at the request of Her Majesty's Commissioners.

TRINITY HALL LODGE, *March* 30, 1854.

The Syndicate appointed by Grace of the Senate, *Feb.* 2, 1853, and continued *May* 25, 1853, to consider whether it is expedient to adopt any measures, and if so what, for augmenting the existing means of teaching the Students of the University by Public Professors and Public Lecturers, and for regulating and encouraging the Studies so taught, and to report thereon to the Senate from time to time, beg leave to make the following Report to the Senate respecting the course of proceeding to Degrees in Law, and the Studies and Examinations of Students in that Faculty.

The Syndicate, having considered the requirements for the education of Students in Law, and being of opinion that sound and useful instruction in the several branches of knowledge connected with that department of study may be supplied in the University, desire to express their persuasions that, if the changes hereafter specified were made in the present system, encouragement would be given to the prosecution of that study as well by Students intended for the Legal Profession as by others whose position and future prospects in life render the acquisition of such knowledge desirable, and a greater number of persons would be induced to resort to the University for the purpose of education in that department of study.

It appears to the Syndicate that the longer standing now required from Students in Law than from Students in Arts, both for admission to a Degree and for the enjoyment of the Privileges of a Member of the Senate, operates as a discouragement to the prosecution of legal Studies in the University.

The Syndicate accordingly recommend that Candidates for the Degree of Bachelor of Laws should be subject to precisely the same conditions with regard to standing and residence in the University as Candidates for the Degree of Bachelor of Arts, it being provided that Bachelors of Laws should have only the same Status and Privileges in the University as Bachelors of Arts.

The Syndicate further recommend that, if the foregoing recommendation be adopted, some step should be interposed between the Degree of Bachelor of Laws and that of Doctor

of Laws; and that for this purpose a new Degree should be established, to be called the Degree of Master of Laws (LL.M.), to which a Bachelor of Laws may be admitted after the lapse of the same period from the completion of his Degree as is required to elapse before a Bachelor of Arts can be admitted to the Degree of Master of Arts, and which shall entitle him to become a Member of the Senate, and have the same Status and Privileges in the University as a Master of Arts.

Paper sent in by Dr. Geldart, Vice Chancellor of Cambridge—*cont.*

Other Regulations recommended by the Syndicate as proper to form part of the Statute Law of the University, will be found specified below under letter A, in the form of Propositions to be submitted to the Senate.

The Syndicate, having considered further the course of Study and the Examinations of Candidates for the Degree of Bachelor of Laws, recommend that before admission to that Degree, the qualifications of the Students should be tested by an Examination conducted in a manner similar to that of the Examination for the Degree of Bachelor of Arts; that the said Examination should embrace such subjects, and be conducted by such Examiners and in such a manner as may be determined by Ordinances of the Senate; and that Honours should be awarded after Examination to those Students who show distinguished proficiency in learning.

In specifying below under letter B. the Subjects of Examination for the Degree of Bachelor of Laws the Syndicate desire to remark that they intend the Examination to comprise History and such other branches of knowledge as are immediately connected with or requisite for the right understanding of the specified subjects.

With a view of submitting the result of their deliberations to the judgment of the Senate, the Syndicate now beg leave to recommend—

A.

That Graces should be offered to the Senate for the introduction of the following Laws and Regulations into the proposed new Body of University Statutes:

1. That every person proceeding to the Degree of Bachelor of Laws shall be required to keep by residence in the University Nine several Terms, or more, if the University please by any fixed Ordinance to require more, exclusive of the Term in which he is first entered on the Boards of any College; and that he may be admitted in the last of the required Terms, after he has duly kept it, to the title of Bachelor Designate in Law.

2. That the Candidate for admission to the Degree of Bachelor of Laws shall be presented to the Chancellor by the Prælector of his College, or by the Deputy of such Prælector.

3. That the Inauguration of the Bachelor of Laws and perfecting of their Degrees shall be on the same day as the Inauguration of the Bachelors of Arts in every year, viz., on the second day of the Easter Term.

4. That the Status and Privileges of a Bachelor Designate in Law shall be in every respect the same as those of a Bachelor Designate in Arts, and the Status and Privileges of a Bachelor of Laws after Inauguration the same as those of an actual Bachelor of Arts.

5. That a Bachelor of Laws, when of three years standing from the completion of his Degree, may be admitted to the Degree of Master of Laws (LL.M.), and that such Degree shall be completed by the Act of Creation at the Magna Comitia next following admission, the personal attendance of the Candidates not being required at such Creation.

6. That the subscription required of persons admitted to the Degree of Master of Laws shall be the same as that required of persons admitted to the Degree of Bachelor of Arts, and that a solemn promise shall be required of obedience to the Laws and executive authority of the University, and also of using the Privileges granted upon admission without abusing them.

7. That the Candidate for admission to the Degree of Master of Laws shall be presented to the Chancellor by the Prælector of his College, or by the Deputy of such Prælector.

8. That the Status and Privileges of a Master of Laws after admission shall be the same as those of an Incepting Master of Arts, and after Creation the same as those of an actual Master of Arts.

9. That a Bachelor of Arts may be admitted to the Degree of Master of Laws after three years from the completion of his Degree.

10. That a Master of Arts may be admitted to the Degree of Master of Laws at any time after Creation.

11. That saving the privilege of proceeding to the Degree of Doctor of Laws, under the conditions of Chapter 13 of the Statutes of 12 Eliz. to all persons who, previously to the repeal of the said Statutes, shall have been admitted to the Degree of Bachelor of Laws or Master of Arts, and saving also the privilege of admission to the same Degree, under the provisions of cap. 3. sect. 5. of the Draft of the new Statutes, no person shall be admitted to the Degree of Doctor of Laws after the repeal of the Statutes of 12 Eliz., who has not previously been admitted to the Degree of Master of Laws.

12. That a Master of Laws may be admitted to the Degree of Doctor of Laws after five years from the completions of his Degree.

B.

That in the year 1857, and in all subsequent years, every Candidate for the Degree of Bachelor of Laws should be required to pass an Examination established according to the following plan:—

1. That there shall be an Examination in every year, commencing on the Tuesday preceding January 13, and open to all Students who have passed the previous Examination, and have kept eight Terms at least, exclusive of the Term of admission.

Paper sent in by Dr. Geldart, Vice-Chancellor of Cambridge—*cont.*

2. That the Subjects of Examination shall be portions of the Roman Civil Law, Constitutional and General Law of England, International Law, and General Jurisprudence; and that the Examination shall be conducted according to a Scheme formed by the Board of Legal Studies and approved by the Senate.

3. That the Examiners shall be the Regius Professor of Laws, and three other Members of the Senate nominated by the Board of Legal Studies, and elected by Grace before the division of Michaelmas Term in every year; and if the Regius Professor of Laws shall be prevented from examining in any year a Deputy to examine in his stead shall be nominated by the Vice Chancellor and elected by the Senate.

4. That the names of those Students who pass the Examination with credit shall be placed according to merit in three Honour Classes; and the names of those who pass the Examination to the satisfaction of the Examiners, yet not so as to deserve Honours, shall be placed alphabetically in a fourth Class.

5. That no person shall have his name placed in any of the Honour Classes if more than ten Terms have passed after his first Term of residence, unless he has obtained permission to be a Candidate for Honours from the Syndicate appointed to examine into the cases of applicants for permission to become Candidates for Honours after they have degraded.

6. That there shall be one additional Examination in every year, commencing on the Tuesday preceding the division of the Easter Term, and open to all Students who have passed a Previous Examination and have kept eight Terms at least, exclusive of the Term of admission; the subjects of Examination being the same as in the preceding Lent Term, and the Examination being conducted by the same Examiners, according to a Scheme formed by the Board of Legal Studies and approved by the Senate.

7. That the names of those Students who pass the Examination in the Easter Term shall be arranged alphabetically in one Class.

8. That each of the three Examiners elected by the Senate shall receive Ten Pounds from the University Chest.

C.

That there should be a Board of Legal Studies, consisting of the Regius Professor of Laws, the Professor of Moral Philosophy, the Professor of Modern History, the Downing Professor of the Laws of England, and the Professor of International Law (if such Professorship be established), together with the Examiners for the Degree of Bachelor of Laws in the current and two preceding years; and that it should be the duty of the said Board to consult together from time to time on all matters relating to the actual state of Law Studies and Examinations in the University, meeting for that purpose at least once in every year, and to prepare, whenever it appears to such Board desirable, and lay before the Vice Chancellor a Report to be by him published to the University.

D.

That if the Regulations A 9 and A 10 should be approved by the Senate, and receive the final sanction of the Crown, every Bachelor of Arts or Master of Arts, who is a Candidate for the Degree of Master of Laws, should be required to pass the same Examination as Candidates for the Degree of Bachelor of Laws.

T. C. Geldart, *Vice Chancellor.*	Mynors Bright.
Gilbert Ainslie.	John Cocker.
G. Archdall.	Francis France.
R. Tatham.	Fras. Martin.
Robt. Phelps.	G. M. Sykes.
W. Whewell.	William Marsh.
H. Phillpott.	G. M. Croker.
H. W. Cookson.	J. Gibson.
R. Okes.	Arthur Westmoreland.
James Cartmell.	Frederick Gell.
E. Guest.	J. Y. Nicholson.
J. Pulling.	Robert Edgar Hughes.
T. Worsley.	W. W. Howard.
J. A. Jeremie.	Wm. Emery.
H. J. H. Bond.	Richard Watson.
W. H. Thompson.	J. S. Purton.
Edwd. R. Theed.	W. M. Campion.

The Vice Chancellor *gives Notice that there will be a* Congregation *on* Tuesday, *May* 2, *when* Graces *to confirm the several parts of the above* Report *will be offered to the* Senate.

Extract from a Paper sent in by Patrick Fraser, Esq.

EXTRACT from Report of the Committee of the FACULTY OF ADVOCATES on the Qualification of Intrants, Edinburgh, 1854.

IX. RECOMMENDATIONS OF THE COMMITTEE.

Having given an abridgment of the materials which they had collected, the Committee proceed to state the practical result of their deliberations.

1. *General Education.*

Extract from a Paper sent in by Patrick Fraser, Esq.—*cont.*

Upon this all-important matter the Committee have not pronounced a judgment without having had before them the information gained from the experience of other Countries. They have been anxious to arrive at such a conclusion as, while it should preserve the character of the Faculty as a Learned Profession, should make its privileges free to all. If they have been more lax in their views than they can find precedent for, either in the History of the Profession in Scotland or in the practice of the Modern States of Europe, their excuse is, that they are unable to recommend rigid and exclusive tests until they find that all other and gentler means have been tried and exhausted.

With the general grounds on which the preceding Committees rested their proposals they entirely agree. They differ only as to the amount of compulsion necessary to enforce them. The Committee, like their predecessors, also insist upon the necessity of general education for the same reasons. The Profession is one of trust and honour. The exercise of its functions may lead the Advocate into every branch of human knowledge. It is essentially a *Learned* Profession; and the Faculty of Advocates in Scotland has ever held a high position as to learning among the Faculties of Law of Europe. Amid the general diffusion of education, and the increased knowledge of all ranks, it is certainly incumbent upon a body so renowned to maintain a character for learning upon other grounds than traditionary respect. It is possible to treat Law as a mere mechanical art, and it is also possible to argue a case without knowing Latin; and if it were enough to become a body of mere case Lawyers, contented, in argument, with simply placing before the Court an accumulation of Scotch authorities, applied with the tact derived from a knowledge of practice, then philosophical knowledge would not only be useless, but an encumbrance. Treating Law on this footing, the mind is apt to confuse the Law itself with the forms and routine which alone too often constitute the study and the practice of a lifetime. Such have not hitherto been the principles upon which the Scottish Bar has acted; and these are not the times for lowering the standard of qualification. America is an example and a warning.*

It is the duty of the Faculty to save "the people and the Courts who are chiefly the sufferers"† from the pleading of ignorant and uninstructed minds. It is surely superfluous to discuss the question as to the propriety of an aspirant to the Profession of an Advocate, possessing a certain amount and quality of knowledge, which it is not so much a credit to possess as a disgrace to be ignorant of. If a mere acquaintance with cases and forms of process cannot make a Lawyer, it is the duty of the Faculty to guide the Student to the studies that will do so. "This Profession," says Lord Woodhouselee, "more than any other, requires an enlarged acquaintance with human nature; a knowledge not to be gained but by philosophical study. It also demands an extensive knowledge of the various arts which constitute the occupations of mankind, and, of course, give rise to a great proportion of those Legal questions which occupy Courts of Justice. The talent of speaking, too, on which the Professional eminence of a Lawyer greatly depends, is incredibly improved by general Scholarship, which supplies his mind with stores of apposite illustrations of his subject." But beyond all this, such a training carries along with it a dignity and elevation of mind which raises its possessor above the mean incidents of his Profession, and preserves honourable and moral distinctions unvitiated in the exercise of an art too often employed to confound and obliterate them.

Influenced by these considerations, the Committee are unanimously of opinion that evidence both of general and Legal learning should be afforded by every Candidate for Admission to the Bar. *The proper evidence of general scholarship is a University Degree*, and if evidence of that be produced, no examination need be made as to general education. But such a test as this the Committee were unwilling to require absolutely and exclusively as it might bear hard upon persons of humble family and straitened circumstances, whose means have denied them the advantage of a College education. Such men ought to have the door of admission open to them as freely as to their more wealthy and aristocratic rivals; and many such have achieved success, and shed lustre upon the Profession. Several, too, have been drafted into the Legal from other Professions, which they have quitted after prosecuting them for years. If such persons possess the requisite abilities and knowledge, it would be a hardship to them and a loss to the Faculty that they should be refused access to the Bar merely because of the want of a University education in their youth.

To avoid these evils the Committee are prepared to recommend that, as regards general Scholarship it should not be indispensable to produce any Certificates of University education. All that ought to be insisted upon is, proof of the possession of the requisite liberal education. It is a matter of indifference in what way that may be acquired, whether by private study or public instruction. And having arrived at this conclusion, the remaining point for determination was the mode of ascertaining the fact. In regard to this it seemed to the Committee to be the most expedient course to subject the Candidate to an Examination upon certain branches of general knowledge conducted by men to whose hands it may be reasonably and safely entrusted. By an arrangement with persons of learning, as will be explained immediately, the Committee believe that an efficient Board of Examinators could be procured in whom the Faculty would have confidence. And the subjects to which they would confine the Examination would be the following four:—*First*, Latin; *secondly*, Greek; *thirdly*,

* Supra, p. 32. † Supra, p. 52.

Extract from a Paper sent in by Patrick Fraser, Esq.—*cont.*

Ethical and Metaphysical Philosophy; *fourthly*, Logic, or (in the option of the Candidate) Mathematics.

It will be observed that in this list of subjects the whole wide department of natural Science is not included; and the reason is, that the Committee wished these Examinations to be restricted to such subjects as might fairly test general Scholarship, without making them so severe as they are in other Countries. If there has been any doubt, it is in reference to Greek, for which it has been suggested that the Candidate might, in his option, substitute two Modern Languages, one of them being German, the language in which so many learned Treatises on Civil and General Law are now written, and the other French, or Italian, or Spanish.

The Committee have had some difficulty in dealing with this suggestion, and they think it better, instead of coming to a resolution on the subject, to report the matter for the decision of the Faculty. Although, therefore, they have stated Greek as one of the subjects on which the Candidate shall be examined, they do so with the explanation, that they have come to no judgment adverse to the proposal of allowing the candidate an option in accordance with the above suggestion.

It is no doubt quite possible to be a Scotch Lawyer without a knowledge of the Greek language. The point, however, is not, what is barely sufficient to sustain the position of an Advocate, but what is the best means of cultivating the understanding in the years devoted to study. The study of the Greek language is in itself a wholesome and bracing exercise to the mind, and opens up a literature as rich and varied, and a history as instructive, as any of the modern languages of Europe. It is now taught in every Grammar School of Scotland; it was formerly cultivated with much success in this country.* It is the language from which the names and terms of art in natural Science are derived. No doubt much of it may be and is forgotten in later life, and it may, too, be difficult to turn the knowledge of it to pecuniary account; but the beneficial influence of its study is great notwithstanding, and persons who in advanced years cannot read a page of Greek, are yet all the better in liberality of mind and cultivation of taste that they spent in its study a short period of their Student years.

"With hardly any exception," says Lord Brougham, "the great things of poetry and eloquence have been done by men who cultivated the exemplars of Athenian genius. Whether we regard the political or forensic orations of the Romans, the style, both in respect of the reasoning and the ornaments, is wholly unfit for the more severe nature of modern affairs both in the Senate or at the Bar. It is altogether otherwise with the Greek Masters. Changing a few phrases which the difference of religion and of manners might render objectionable, moderating in some degree the virulence of invective, especially against private character, to suit the chivalrous courtesy of modern hostility, there is hardly one of the political or forensic orations of the Greeks that might not be delivered in similar circumstances before our Senate or Tribunals. But if a further is required for giving the preference to the Greek Orators, we may find it in the great diversity and importance of the subjects upon which their speeches were delivered. Besides the number of admirable orations and of written arguments upon causes merely forensic, we have every subject of public policy, all the great affairs of State successively forming the topics of discussion."

It is not intended in any way to depreciate the importance of the modern languages of Europe. The languages in which Savigny and Pothier have written can never be unimportant to a Lawyer. But the acquisition of French at least is now so much a matter of course, that it may be expected to be made without anything like compulsion.

2. *Legal Education.*

But while the Committee are thus willing to dispense with any University Curriculum in reference to general education, they are unanimously of opinion that there ought to be a short University Course of Legal Study. It would be useless to recommend so extensive a curriculum as that required for the Bars of other Countries, because our Universities do not possess the adequate Legal Chairs. But in so far as our means of education in Law extend, the Committee do not see any reason why attendance should not be made compulsory.

Some of the Committee at first were of opinion that the Course should consist, in so far as compulsory, of two Sessions in the study of the Civil Law only, on the ground that the Law of Scotland, being that by which the future Advocate must earn his subsistence, would take care of itself; but all of the Committee were of opinion that at least there should be one Session's attendance on the Lectures at a Civil Law Class; and as Civil Law, though at present the subject of Examination is for the first time to be made a Course of study, the Committee beg to explain their reasons for the recommendation.

The Civil Law constitutes the basis of nearly all the Law of Europe, and is the best substitute for Lectures on General Jurisprudence. The circumstances of the present times prove the truth of Lord Stair's opinion, "that no man can be a knowing Lawyer in any nation who hath not well pondered and digested in his mind the Common Law of the world." The constant changes in the Law which every recurring year produces—the daily schemes for the assimilation of the Laws of our own Country with that of England—the proposal, upon which a Royal Commission has just reported, to import into our Law from the Continent and America

* See M'Crie's Notes to Life of Knox and Life of Andrew Melville.

Extract from a Paper sent in by Patrick Fraser, Esq.—*cont.*

a new section in the Law of Partnership,—all show that in following out the views of our great institutional writer we are not merely indulging the liberal curiosity of the scholar but acquiring information for the improvement of our own institutions, and hints towards moulding old Laws to the natural progress of society. Every year furnishes new combinations in the arts and trading speculations of a great commercial country, and every year are our Lawyers obliged to learn some new chapter of their science. To do this without a preparatory training in early years, is to do it at a disadvantage at the best, and it is attended with such difficulties that it is often imperfectly performed. The Modern Law of Joint Stock Companies is a novelty, and from the constant intercourse of Nations the intricate subject of International Law, which furnished scope for the abundant learning of the civilians of the seventeenth century, has grown recently into vast importance. The Law accommodates itself to change in the usages of society—to the increase and improvements of property—to new kinds of property, and to new views in the public policy of the Kingdom. "'*Quicquid agunt homines*,' is the business of Courts, and as the usages of society alter the Law, must adapt itself to the various situations of mankind."* How much more easily could a Lawyer thus change with the times, if in early years he had studiously gone through a Course of General Law, and been trained in that kind of systematic instruction which is given abroad. The consequences of the total want of such training are illustrated in the decline of the American Bar.†

In requiring the Civil Law as an essential branch of the Legal education of a Scottish Advocate the Committee are only enforcing the rule sanctioned by the prescription of three centuries. They are by no means desirous of attaching an undue degree of importance to its study, or to claim for it the undistinguishing veneration with which the Faculty were in former days asked to regard it. They claim for it only such a degree of attention as it is entitled to from its merits—merits which have been acknowledged by men whose partiality for their own Common Law gives weight to their testimony.‡

A system which has contributed to give form and consistency to the Law of Scotland could not be overlooked in an enlightened system of Legal Education. But independently of its special claims on the notice of a Scottish Lawyer, the jurisprudence of the greatest Nation of antiquity must possess an imperishable interest in the eyes of those who regard Law as a science, every step in the development of which has its value and importance, as tending to accomplish the establishment of sound principles of Legislation, and the correct administration of justice. Accordingly it has been nearly the universal rule of all the States of Europe to enforce upon the Advocate of the Supreme Courts the study, not merely of the Jurisprudence of the locality, but also that of the Civil Law; not so much for its immediate use in practice, as because its study humanizes the mind, gives a larger and more comprehensive view of Jurisprudence, and furnishes at the same time the many informing aids that are to be derived from the history of other times.

With these views the Committee came ultimately to be of opinion that the following Course of Legal Education should be prescribed :—

Two years' attendance at a University, during which the following Classes must be attended :—*First*, one session at Civil Law; *secondly*, one session (during a separate year) at the Law of Scotland; *thirdly*, during either of the two years, or a third year, another session at one of these Law Classes, or at the Class of Conveyancing; and, *fourthly*, during either of the two years, or a third year, one session at the Class of Medical Jurisprudence.

3. *Board of Examinators.*

1. The Board of Examinators in General Scholarship to consist of six Members of Faculty, three to be a Quorum. Of these six, two shall go out annually. The object of the Committee in limiting the number, and giving a permanent character to the Board by providing for only one vacancy annually is to secure the services of gentlemen who will, by the experience of several years, have acquired the requisite tact and knowledge for the proper discharge of the duty.

The Board of Examinators shall select such persons of learning, in number not less than three, by whom the Examination in general Scholarship provided for shall be made. These persons to be paid a fee, which the Candidate shall have previously deposited with the Librarian of the Faculty. This Examination shall take place in presence of the Board of

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* Lord Mansfield, in 3 Doug. 373.

† "Law is not the product of the wisdom of some one man or Society of men, in any age, but of the wisdom, counsel, experience, and observation of many ages of wise and observing men. . . . When the subject of any Law is single, the prudence of one age may go far at one essay to provide a fit Law; and yet even in the wisest provisions of that kind, experience shows us that new and unthought of emergencies often happen which successively require new supplementary abatements or explanations. But the body of Laws which concern the common justice applicable to a great Kingdom is vast and comprehensive, consists of infinite particulars, and must meet with various emergencies, and therefore requires much time and much experience, as well as much wisdom and prudence, successively to discover defects and inconveniences, and to apply apt supplements and remedies for them."—*Sir Matthew Hale.*

‡ The Roman Law forms no rule binding in itself on the subjects of these Realms; but in deciding a case upon principle, where no direct authority can be cited from our books, it affords no small evidence of the soundness of the conclusion at which we have arrived, if it prove to be supported by that Law—the fruit of the researches of the most learned men, the collective wisdom of ages, and the groundwork of the Municipal Law of most of the Countries of Europe."—(Per Chief Justice Tindal, Acton v. Blundell, 12 Meeson and Welsby, p. 324.)

Extract from a Paper, &c.—*cont.*

Examinators, and these three persons, whose assistance the Board are to take, shall deliver a written Report of their opinion as to the Candidates' qualifications. The Board of Examinators shall thereupon, after giving due weight to the Report, proceed to decide as to whether or not the trials should be approved of.

2. The same Board of Examinators shall also be Examinators in Law, with the addition of the Law Professors in the University, one of whom at least to be present at each Examination. Four to be a Quorum. The Professors who are Members of Faculty to have a vote. The Professors to be paid a fee, to be deposited by the Candidates with the Librarian as above. The Senior Law Professor present, who is a Member of Faculty, to be Chairman at the Examination.

4. *Mode of Examination.*

1. *Examination in General Knowledge.*—After the Petition of a Candidate is presented, and a remit made by the Court to the Faculty for his Examination, the Examination shall take place first in general Scholarship. If a University Degree be possessed that shall be held sufficient without further Examination, and his trials dispensed with.

The following Degrees shall alone be recognized:—1. M.A. of any of the five Scotch Universities; 2, M.A. or B.A., or Bachelor or Doctor of Civil Law of Oxford, Cambridge, and Trinity College, Dublin. Degrees which are evidence of the same amount of learning as the Scotch Degree of M.A. will be recognized from the Universities of London, Durham, the Queen's University in Ireland, and from such foreign Universities as may on further inquiry be fixed on.

2. If the Candidate do not produce evidence of having graduated at one of these Universities, he shall be remitted to the Board of Examinators to be examined in the mode already stated on the subjects above specified.

If he possess a Degree, or if the trials above specified be found sufficient, the Candidate shall be remitted to his Legal studies, as at present, for a year. And in order to do full justice to the Candidate himself, and secure for him as far as possible that concentration of attention, without which no study can be useful, the Committee propose that during the year preceding the Law Examination the Candidate shall be engaged in no Mercantile or Legal business. It is thought that in requiring this the best interests of the Candidate himself will be promoted; while the Faculty will only be reviving an old and useful regulation. It was formerly the custom for young men after undergoing their preliminary trials, and before coming to the Bar, to render their studies useful by seeing the practical application of the Law in Court. This, in the quaint language of the age, was called "haunting the formes and courtes," and after the period of this haunting was expired, and upon due proof being given that they had completed a regular course of Legal study, they were admitted Advocates and enjoyed the privilege of practising before the Court.*

3. *Examination in Law.*—On the expiration of the year the Candidate, on production of Certificates of attendance at Law Classes, as above specified, shall be taken upon his trials, first on the Civil Law, and then on the Law of Scotland.

The Examination in the Civil Law to be made upon the Institutes of Justinian, with such elementary Treatise as may be hereafter selected; and also upon the Title in the Pandects, "De diversis regulis juris antiqui,"—(Lib. L. tit. xvii.)—being a collection of those Legal maxims, nearly all of which have been adopted into the Scotch Law, and which it would be extremely profitable for every Lawyer to learn. It will be necessary, however, that this Title be studied along with an approved Commentary, on which also the Examination is to be made. The Thesis upon a Title in the Civil Law to be prepared as at present, and to be certified as the Candidate's on composition.

It is proposed that the Text Book for the Examination on Scotch Law shall be Bell's Principles in place of Erskine's Principles, so much of the latter having been superseded by subsequent Legislation.

5. *Time of commencement of new Rules.*—These regulations it is proposed should commence on 1st November 1855.

The chief novelty in the preceding recommendations is in accepting evidence of general Scholarship, however acquired, as equivalent to a regular University Education. For reasons already stated, the Committee do not think that anything more rigid should be enforced. They have aimed at present at a specific good without, however, precluding themselves from seeking those farther changes which may be expedient in consequence of the anticipated establishment of additional Legal Chairs in the Universities, or which may be suggested by a larger experience.

PATRICK FRASER, Convener.

Letter from M. Algernon Jones to Mr. Keating.

LETTER from M. ALGERNON JONES, Advocate of the French Bar, to Mr. KEATING, Q.C., M.P.

Paris, 3, Rue de la Ferme des Mathurins,
17th November 1854.

SIR,

I ENCLOSE one of the Bills of the Faculty of Law of Paris. I have added a note next the paragraph belonging to each year for the purpose of refreshing your memory with respect to the number of Examinations.

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* Tytler's Life of Craig, p. 21.

Letter from M. Algernon Jones, &c.—*cont.*

One at the end of the first year, on the elements of the French and of Roman Law.

One at the end of the second, on French Law only.

In the course of the third year, one Examination on Roman Law, one on French Law, and at the end of it a Thesis upon a subject of the Civil Law and the corresponding topic in the Roman Law, and also upon some topic of French Criminal or Commercial Law.

When the Student has undergone these various ordeals he obtains, at the expiration of the third year, the Diploma of Licentiate of Laws, which gives him a right to be sworn before the Court of Appeal, and called to the Bar.

The Diploma of Bachelor of Laws, which the Student obtains after he has passed the Examinations of the first and second year, confers no right; it is merely a step towards the Licentiate.

The studies of the fourth year, which are more deep than those of the preceding year, terminate by two severe Examinations, one on Roman Law (especially the Digest); the other on French Constitutional Law, the History of French and Roman Law, and International Law.

The Degree of Doctor of Laws is necessary for admittance to a Professorship, (besides particular proofs and Examinations,) and is a recommendation, though not a *sine quâ non*, for Judicial and Magisterial functions.

I think I forgot to state in my last letter, that the Degree of Bachelor of Arts,—"*bachelier-ès-lettres*,"—as a sort of proof of a liberal education, is required for admittance to the Faculty of Law.

Perhaps the following fiscal information will be useful :—

Every year the Student is to take four "Inscriptions" at the Faculty of Law, which costs thirty francs each, making 120 francs per annum.

The cost of the first Examination is 100 francs; of the second, with the Diploma of Bachelor-of-Law, 200 francs; the cost of the two Examinations of the third year is 100 francs each; and the fees for the Thesis and the Diploma are 240 francs; the cost of the fourth year (year of the Doctorate) is the same as that of the third year. So that the total amount in mere fees paid to the French University to obtain the Diploma of Licentiate is, 1,100 francs or 44*l.* The year of the Doctorate would be 560 francs more.

Hoping that the above details may be of use,

I remain, Sir, most truly yours,

ALGERNON JONES.

To H. S. Keating, Esq., Q.C., M.P.

Programme des Cours de la Faculté de Droit.

Année Scolaire, 1854–1855, 1*er Semestre.*

Programme des Cours de la Faculté de Droit. Année Scolaire, 1854—1855, 1er Semestre, sent enclosed in ditto.

A partir du Mercredi, 15 Novembre 1854, les Cours de la Faculté auront lieu aux Jours et Heures ci-après.

Cours de Première Année.

Droit Romain.—M. Blondeau, Professeur, Ancien Amphithéâtre, Mardi, Jeudi, Samedi, à 1 heure et ¾.

M. Roustain, Suppléant, *Chargé du Cours.*

M. Machelard, Professeur, Ancien Amphithéâtre, Les mêmes jours, à 11 heures.

Code Napoléon.—M. Duranton, Professeur, Autorisé *à se faire suppléer, en cas d'empêchement, par* M. Frédéric Duranton, Suppléant, Ancien Amphithéâtre, Lundi, Mercredi, Vendredi, à 10 heures.

M. Perreyve, Professeur, Ancien Amphithéâtre, Les mêmes jours, à 8 heures et ¼.

Introduction générale à l'Etate du Droit.—M. De Portets, Professeur, Nouvel Amphithéâtre, Les mêmes jours, à 1 heure.

(At the end of the first year there is one Examination on the Elements of French and Roman Law.)

Cours de Deuxième Année.

Droit Romain.—M. Pellatt, Professeur, Nouvel Amphithéâtre, Mardi, Jeudi, Samedi, à 11 heures.

M. Giraud, Professeur, Ancien Amphithéâtre, Lundi, Mercredi, Vendredi, à 1 heure.

Code Napoléon.—M. Demante, Professeur, Nouvel Amphithéâtre, Les mêmes jours, à 9 heures et ¾.

M. Oudot, Professeur, Ancien Amphithéâtre, Les mêmes jours, à 11 heures et ½.

Législation criminelle et Procédure civile et criminelle.—M. Bonnier, Professeur, Ancien Amphithéâtre, Mardi, Jeudi, Samedi, à 9 heures et ½.

Droit criminel et législation pénale comparée.—M. Ortolan, Professeur, Nouvel Amphithéâtre, Les mêmes jours, à 8 heures.

Procédure civile.—M. Colmet-Daage, Professeur, Nouvel Amphithéâtre, Les mêmes jours, à 9 heures et ½.

(At the end of the second year there is one Examination in French only.)

Cours de Troisième Année.

Code Napoléon.—M. Bugnet, Professeur, Nouvel Amphithéâtre, Lundi, Mercredi, Vendredi, à 8 heures.

M. Valette, Professeur, Nouvel Amphithéâtre, Les mêmes jours, à 11 heures et ¼.

Programme, &c.—*cont.*

Code de Commerce.—M. Bravard, Professeur, Nouvel Amphithéâtre, Mardi, Jeudi, Samedi, à midi et ½.

Droit administratif.—M. Vuatrin, Professeur, Nouvel Amphithéâtre, Les mêmes jours, à 1 heures et ¾.

(In the course of the third year there are two Examinations—one on the Roman Law, and one on the French Law.

At the end of it a Thesis upon a subject of the Civil Law, and the corresponding topic in the Roman Law, and also upon some topic of the French Criminal or Commercial Law.)

Cours de Quatrième Année.

Droit des Gens.—M. Royer-Collard, Professeur, Ancien Amphithéâtre, Mardi, Jeudi, Samedi, à 8 heures et ¼.

Histoire du droit Romain et du droit Français.—M. de Valroger, Professeur, Ancien Amphithéâtre. Les mêmes jours, à midi et ½.

Conférences sur les Pandectes, sous la direction d'un Professeur de droit Romain.—Ancien Amphithéâtre, Mercredi, à 2 heures et ½.

(The same number of Examinations as the previous year, and also a Thesis.

After the two years and the Examination, the Student obtains the Diploma of Bachelor of Laws; after the third year that of Licentiate; and after the fourth that of Doctor.)

Toute personne aspirant aux grades que les Facultés de Droit sont chargées de conférer doit, afin de pouvoir justifier du temps d'étude exigé par les règlements, inscrire elle-même, dans les quinze premiers jours de chaque trimestre de l'année scolaire, ses nom, prénoms, âge et lieu de naissance, sur un registre ouvert à cet effet au Secrétariat de la Faculté dont elle vent suivre les Cours.

Le registre des inscriptions pour le premier trimestre de l'année scolaire 1854–1855, ouvert le Jeudi, 2 Novembre, sera clos irrévocablement le Mercredi, 15 du même mois, *à trois heures.*

Le second trimestre s'ouvrira le 2 Janvier; le troisième, le 1er Avril; et le quatrième, le 1er Juillet.

On ne peut commencer l'étude du droit qu'au premier trimestre de l'année scolaire, c'est-à-dire, au mois de Novembre.

Celui qui veut prendre sa première inscription est tenu de déposer:—1°, une expédition dûment légalisée de son acte de naissance; 2°, son Diplôme de Bachelier-ès-Lettres, ou un certificat d'admission à ce grade, visé par le Recteur de l'Académie dans laquelle il aura été reçu: ce certificat, si le candidat a été reçu dans une Faculté des départemens, devra en outre être visé par le Vice-Recteur de l'Académie de Paris.

Si l'Etudiant est mineur, il doit justifier du consentement du parent sous la puissance duquel il se trouve, ou bien, à défaut de père et mère, du consentement de son tuteur; lorsque la personne sous la puissance ou la tutelle de qui l'Etudiant se trouve ne se présente pas avec lui, le consentement de cette personne doit être justifié par un acte dûment légalisé, et cet acte doit indiquer le domicile actuel du parent ou tuteur.

L'Etudiant qui n'a pas son domicile à Paris doit, en outre, offrir pour répondant une personne domiciliée en cette ville, et cette personne est tenue d'inscrire elle-même son nom et son adresse sur un registre ouvert à cet effet au Secrétariat.

Ceux qui n'aspirent qu'à obtenir un certificat de capacité ne sont pas tenus de produire le Diplôme de Bachelier-ès-Lettres.

Les inscriptions prises pour parvenir à l'obtention du certificat de capacité ne peuvent plus être converties en inscriptions pour le baccalauréat.

Les Etudiants ne peuvent prendre de nouvelles inscriptions qu'après avoir justifiée:—1°, de leur assiduité au cours du trimestre ecoulé, conformément à l'art. 15 du décret du 10 Avril 1852; 2°, de leur assiduité à un Cours de la Faculté des Lettres et à un Cours, soit de la Faculté de Théologie, soit de la Faculté des Sciences, conformément à l'art. 13 du décret précité et à l'art. 7 du décret du 22 Août 1854.

Tout changement survenu pendant l'année scolaire:—1°, quant au domicile et à l'adresse des père et mère ou tuteur de l'Etudiant; 2°, quant au domicile de l'Etudiant lui-même, lorsqu'il est majeur ou émancipé; 3°, quant à sa résidence à Paris, si elle est distincte de son domicile; 4°, enfin, quant au domicile et à l'adresse de son répondant, doit être déclaré immédiatement au Secrétariat. Tout omission d'une déclaration prescrite par les règlements, et, à plus forte raison, toute fausse déclaration, pourra être punie par la privation d'une ou plusieurs inscriptions.

Mr. Greenwood's Report as to Systems of Legal Education in Germany.

Mr. Greenwood's Report upon the Systems of Legal Education pursued in the different States of Germany.

Report to Commissioners of Inquiry, &c. &c. &c.

1. In the course of a short residence in Germany, in the months of August, September, and October of this year, I took occasion to make inquiries at the Universities of Heidelberg, Berlin, Tübingen, and Bonn, as to the course of Legal Education pursued in that country, with a view to ascertain its general nature, and its results as they affected the interests of society in that Country, and its capability of furnishing any hint or information which might be of use to the objects of this Commission.

Mr. Greenwood's Report, &c.—*cont.*

2. It should be stated that the gentlemen applied to responded with the utmost alacrity, some of them furnishing very detailed written answers to the questions proposed. The gentlemen from whom such replies have been received are, Drs. Warnkönig of Tübingen, Wangerow and Mittemaier, and Wahloff of Heidelberg, and Dr. Gneist of Berlin. In the course of conversation some useful information was derived from other gentlemen, *e.g.*, Baron Zwierlein and Mr. F. Lade of Geissenheim, Mr. Bach of London, Dr. Meyer of Heidelberg, and Mr. Hopman of Bonn. Several of these gentlemen were found to possess a very comprehensive knowledge of the theory and practice of English Law; an observation which encouraged me to frame some of the questions so as to elicit opinions upon the comparative merits of the different systems of Legal Education in Germany and England, and of the possible applicability of the German system, or any part of it, to the improvement of our own.

3. The inquiries addressed to these gentlemen touched upon the following subjects:—

I. The several *Schemes or Codes of Law* prevalent in the different States of Germany, and their relations to each other.

II. The preliminary *Course of Education* required to qualify the pupils for the Advocate's Bar or the Judicial Bench at the University; Courses of Lectures; Text Books used, &c.

III. *Composition and Constitution of the Courts of Law*, especially with reference to the duties of Judges and Advocates, and the means adapted to test their competency.

IV. *Advantages or Disadvantages* in the practical administration of the Law resulting from the system of Legal Education and probation, and generally from the mode of appointing to the offices of Judges, Advocates, and Law Officers.

V. *The Study of the Roman Law*, and its relations to the several operative Codes in use in Germany; its effects in the cultivation of the Legal mind, and in supplying precepts and principles of exposition applicable to other kinds of Law.

VI. The probable *result* of introducing the Study of the *Civil Law* and of *General Law*—called in German phrase the *Encyclopædia of Law*—as a preparatory step in the education of English Lawyers, respect being had to the very different character of English Law from any other system now subsisting in Europe.

I. *The several Schemes or Codes of Law* prevalent in Germany.

4. *Dr. Mittemaier* observes that in most of the States of Germany there is no single and exclusive Code in use. In such States the *Roman or Civil Law* forms what may be regarded as the Common Law of the land; yet even there the rules of the Roman Law are not implicitly adopted or followed *as Law;* but they are in practice modified by those of the *Canon Law*, the old *National Germanic Law* (a Law founded on ancient usage, like our Common Law), the *Feudal Law*, and many local customs, State Regulations, and Ordinances which interpose to control and direct the Courts in the application of the precepts of the Roman Law. Complete and consolidated Codes have, however, been adopted in the following countries:—

1. *In Austria*, where the Code of 1812 is in operation.
2. *In Prussia Proper*, where that of 1793 prevails.
3. *In Bavaria*, where the Civil Code of 1753 is still in operation.
4. *In Baden and the Rhenish provinces of Prussia* where the French Code of 1809 (Code Napoléon) has been introduced with some modifications.

5. *Dr. Gneist*, of Berlin, observes, that all these Codes are founded on the Roman Law. In the other German States, he says, the old *Germanic Law* (Gemeines Recht, Common Law), is still in force, and that Law consists of a mixture of Roman elements with the ancient immemorial customs of Germany. These elements are accordingly treated separately in the Universities—the Roman portion in conjunction with the general instruction in Roman Law; the Germanic, in Lectures specially devoted to that department. It has been erroneously supposed, however, that the Roman Law was the only systematically digested scheme of Law in Germany, since in point of fact the old Germanic Common Law has been digested and arranged upon scientific principles, and is now taught and studied in the same way as the Civil Law.

6. As to *Criminal Law* the same learned gentleman says that almost every German State has now its own peculiar Code—so likewise for *Criminal Procedure.*

7. As to *Civil Procedure*, Prussia and Austria has each its own special Code, and so also several of the intermediate States; but in the greater number the Civil Procedure is regulated by the methods of the old Germanic Common Law. Notwithstanding, however, this ostensible variety of Laws, there is so general a similarity in the most important respects, *e.g.*, in the Laws affecting Property, Real and Personal, Contracts and Private Rights generally, as to lead to little practical inconvenience. Neither does the Criminal Law vary much in principle, though in respect of Criminal Procedure there are important differences between Austria and Prussia on the one hand and the States which enjoy a Constitutional Government on the other. The Law affecting Bills of Exchange is the same all over Germany.

8. With reference to the practical working of these several Codes and Schemes of Law, and their relations to each other, the German Jurist regards the Roman Law—even when not appealed to as imperative Rule of Law—as furnishing the best Rules and Methods for the exposition and application of all the rest.

9. On this point, however, Dr. Mittemaier is of opinion that, particularly in the Countries where the Roman Law is still the Common Law of the land, there is a great want of uniformity of decision in particular cases. This disadvantage he attributes to a too rigid adherence on the part of the Judges to the forms and theories of the Roman Law, inclining them to regard

Mr. Greenwood's Report, &c.—*cont.*

its maxims as imperative rules, so that their decisions are often at variance with the spirit of the age and the practical wants of society. The value of the Roman Law, he thinks, is frequently overrated, and this has led to a too exclusive study of that Law in the Universities, to the prejudice not only of the properly National Laws, but of the philosophy and history of Law. "In my opinion," he concludes, "the education of our Jurists is not sufficiently practical."

10. *Dr. Gneist's* opinion on this point is somewhat different. Speaking of that variety of Schemes and Codes of Law and Procedure just mentioned, he says, "The theory and the practice of Law in this country stand in the best harmony with each other." From his long experience as a Judge upon the Bench, and as Professor of Law in the University of Berlin, he has arrived at the conviction, that there is now-a-days no serious fault to be found with the practical working of the whole of these Codes and Schemes of Law in any of the States of Germany.

11. *Dr. Wahloff* confirms this opinion. He further observes on the general topic, that no objection has arisen in Germany of any unsuitableness or detrimental influence of scientific theory in the practical administration of those Laws. Nothing, in point of fact, would be more erroneous than to assume that the administration of the Law in Germany is rendered less efficient for its proper purpose by scientific over-refinement. He rather laments that scientific principles and methods are not more familiar to the Profession than they are. In fact, he regards all modern Lawyers as too reluctant to give in to the philosophical views of the present age.

II. *Preliminary Course of Legal Education* at the German Universities, &c.

12. In Germany all education for the Public Service must take place at a University—most frequently at a University of the State of which the Pupil is a subject. A State Education is an indispensable qualification for the service of the State in all its branches.

13. This education commences in earliest youth at a Gymnasium or State School. Private Schools are very rare, and are not frequented by those who intend to embrace the Public Service.

14. Every pupil brings with him to the University a Certificate from the Gymnasium of having passed a good Examination in Classical and General Literature, such as History, Geography, Mathematics, Physical Science, &c.; upon producing this Certificate, he is matriculated at the University, and is then at liberty to enter himself for the Lectures of any one or more of the several Professors appointed to give instruction in those branches of study connected with his future occupation in life. The Law Student, of course, attends the Readings both upon the Theoretical and Practical branches of the Legal Profession.

15. The subjects of those Readings are expressly selected and treated with a view to the several tests and probations required by the Governments of the several States of the Confederation for the Public Service.

16. Dr. Wahloff observes, that as the Universities are not exclusively frequented by the subjects of the State in which they are locally situated, but often by Students from other States, no uniform or exclusive Course of Lectures are prescribed to the Universities, or imposed by them upon the pupils. The care of providing instructors in all the Faculties falls entirely upon the Governments. Dr. Gneist says, that from six to twelve Professors of Law are thus appointed in all the Universities, and, on an average, about half that number of private tutors, by License from the Faculty of Professors. Where there is a Superior Court in a City or Town in which the University is situated some of the Professors are usually Judges of that Court. It is then left to the Student to attend such Lectures as by the regulations of the State in which they wish to practise they may be required to attend.

17. As to attendance upon Lectures, the regulations vary. In some few States, as, *e. g.*, Wurtemburg, no Certificates of attendance upon any particular Courses of Lectures are required; but the majority of States call upon the Candidates for place to prove attendance on certain given Courses of Lectures, by Certificates from the Professors. Again, in all the States these Courses are not identical, yet in general it may be assumed that the following are indispensable:—

1. Encyclopædia of Law (General Jurisprudence).
2. National Law (Philosophy of Law).
3. Roman Law (Institutes and Pandects).
4. International Law (Law of Nations).
5. Criminal Law.
6. Civil and Criminal Procedure.

18. According to Dr. Gneist, the Course of Law reading in the University of Berlin comprehends three years or six Semestres' attendance upon the following Lectures:—

1. Logic.
2. Philosophy of Law.
3. Encyclopædia of Law.
4. Institutes and History of Roman Law.
5. Pandects of the Roman Law.
6. History of the Empire and Common Law of Germany.
7. Germanic Private Law, comprising such portions of the ancient National Law as are not superseded by the adoption of the Civil Law.

8. Canon or Ecclesiastical Law.
9. European International Law.
10. Germanic State or Constitutional Law.
11. Criminal Law.
12. Medical Jurisprudence (taught by Physicians, not by Lawyers).
13. Prussian Civil Code.
14. Civil Procedure.
15. Criminal Procedure.
16. Political Economy.

Certificates of attendance upon all these Lectures are indispensable in Prussia for Legal appointment.

19. But neither in Prussia nor in the other States of the Confederation is the study of the Law regarded as a branch of a liberal education; and is therefore taken up by very few who do not intend to qualify for the Civil Service of the State.

Without specifying the works on Law studied in the German Universities, of which, however, I have a tolerably complete list, it is sufficient to mention, that the general subjects, as enumerated in sect. 18, are systematically digested in the shape of *Manuals of Study*, consisting of synoptical arrangements for the guidance of the Professor in his Lectures, and the direction of the private studies of the pupils.

20. At the University of Heidelberg, and some others, according to Dr. Mittemaier, the Students, after or contemporaneously with, instruction upon Procedure, Civil and Criminal, enter upon exercises technically called "Practica." "I have," says the last-mentioned gentleman, "for these forty years given instructions of this kind, in which I have introduced the Students to all kinds and forms of practical Law Business, and exercised them in the Oral and Written practice of the Courts of Law." Dr. Gneist, however, observes that these "Practica" are now falling into disuse, owing to the Universities having ceased to be referred to as Courts of Appeal and Revision. He adds, that even there, where there are Courts of Appeal in the University Towns, the forms of trial now in use make them almost inaccessible to the Law Students. Neither is it now usual, as formerly, for such Students, during their period of study at the Universities, to frequent the Chambers of an Advocate. In this respect he is decidedly of opinion that the English Inns of Court offer far better opportunities for a sound Legal Education.

21. Dr. Gneist traces many inconveniences in the study and practice of the Law to the centralizing or bureaucratic system now pursued by all the German Governments. The Universities, he says, have strongly felt the constraints thus imposed upon the different Professions, and have endeavoured to steer clear of any compulsory schemes of attendance upon Lectures and Examinations. Accordingly, all regulations of that nature issue solely from the Office of the Minister of Justice, and concern only the Candidates for the Civil Service. At the Universities, there is only one Examination, namely, that for the Degree of Doctor of Laws. The Austrian Universities, however, adopt a different plan, but with very poor results, both Law Students and Practitioners turning out very inferior to those of other parts of Germany. The other Universities choose to rely upon the good sense and the sound previous education of the pupils, to induce them to learn what is required of them; and experience has shown that they are right.

III. *Composition and Constitution of the Courts of Law in Germany, &c.*

22. In every part of Germany, not only all Judges, but all Advocates and Officers of the Courts are appointed by the Government. The Judicial department is kept quite distinct from the Bar; and, though without absolute exclusion, Advocates do not in general rise to the Bench. Dr. Gneist observes of the Prussian States, that the emoluments of the Bar are generally so much greater than the Salaries of the Judges, that Barristers in good practice rarely desire to exchange to the Bench, more especially as in social estimation and prospect of advancement there is no great difference between the two conditions. The education of the Judge is in fact exclusively directed to prepare him for the Judicial Office, *per se*. It is, indeed, a very common opinion in Germany, and I have myself frequently heard it urged, that an Advocate, when raised to the Bench, must of necessity bring with him the contracted views and habits of mind produced by always contemplating his subjects on one side only, and that the longer he continues at this work the more likely he is to lose the faculty of mind requisite to embrace the whole of a question,—a faculty indispensable to the due administration of justice.

23. When appointed, both Judges and Advocates are assigned to particular Courts, and must practise there, and there only, until officially removed. Baron Zwierlein and Mr. F. Lade observe, that the Profession of the Law in their country rarely leads to any distinguished position in the State. Little prospect either of honours or emolument is held out as a reward for eminence in the Profession. That Profession is in general confined to a narrow routine of duties. The gains of the Advocate are not great, excepting perhaps in Berlin, where, according to Dr. Gneist, there are many more Judges than Advocates attached to the Courts, and the former appointments have become almost a monopoly.

24. Throughout Germany the Advocate performs most of the duties of the Attorney in England, and of the Avoué in the French Courts. A scale of fees is established in all the Courts for his remuneration, and beyond that he has no claim upon his client. But these fees he may recover by Process of Law. In former times there was a field for competition

Mr. Greenwood's Report, &c.—*cont*

among the class of Advocates, but the recent reforms have struck away all concurrence, and now a stated number of Advocates is appointed to each Court, among whom all the business must be divided out. Thus, in the Superior Courts of Berlin there are, according to Dr. Gneist's account, about 180 Judges, and only 68 Advocates; and in general, throughout all the Courts, the number of Advocates is below that of Judges. But this is in a measure accounted for by the fact, that a great deal of the business, which in other countries is performed by the Office Clerk, the Attorney, or the Barrister, is done by the Judges ex officio. The salaries of the judges are in general very low. A Judicial College, consisting of eight, ten, twelve, or even more Judges, is in fact assigned to each "instance." The presiding Judge is indeed better paid; but beyond the prospect of rising to the chiefship of his Court the inferior does not look forward to any further advancement.

25. The result of all this is, that it rarely occurs that any Students from the higher walks of life embrace the Legal Profession; gentlemen of wealth, rank, or family, never. Yet this latter class of pupils, at the University, devote a portion of their time to the study of Jurisprudence, because a competent knowledge of that subject is requisite to qualify them for the Civil Service of the State in those departments which really hold out a prospect of advancement and distinction. On the other hand, the status of the Advocate is regarded rather as a métier or trade than as a liberal profession. An honorarium above the amount of the legally recoverable fees is sometimes given, or rather bargained for, between the Advocate and his client, to depend upon success in the cause; but this honorarium cannot be recovered by Process of Law. Under such circumstances, it is not to be wondered at, that, as Dr. Gneist observes, the character of the Judge stands higher than that of the Advocate.

26. The Courts of Law generally throughout Germany are divided into three "Instances," to each of which a particular body of Judges, as well as Advocates, is attached. These Courts consist (1) of the *Amts* or Kreis-Gericht (County or District Court), in which all Actions must commence; (2) the *Appellations-Gericht* (First Court of Appeal), to which all actions proceed, as a matter of course, unless both parties agree to abide by the decision of the Court below; (3) the *Ober-Appellations-Gericht* (Superior Court of Appeal), resembling the French Cour de Cassation.

27. In the Rhenish Provinces of Prussia, where the Code Napoléon is in operation, the division of the Courts and Judicial Officers is nearly the same, though, in some instances, the names and titles of the Officers are different. But here there is another and an independent Court called the "Tribunal of Commerce," in conformity with the French Law. This Court is administered by a President, and a body of Judges, Advocates, &c. like the rest.

28. From two works before me containing methodical digests of all the Government regulations for the examination and appointment, and for determining the qualifications of Officers and Candidates for Legal Offices in the Prussian Dominions, it appears that the whole body of persons employed in the administration of Justice is divided into two Classes—the *superior* and the *inferior:* the latter, consisting of mere Clerks, Bailiffs, Tipstaves, Ushers, Jailors, &c., require no further mention. The superior officers are, as far as it is necessary to specify them,—1stly, the President and Judges of the Superior Court of Appeal; 2ndly, those of the Inferior Court of Appeal; and 3rdly, those of the County and District Courts; 4thly, Advocates and Notaries Public. For all these a regular academic education and several probationary Examinations have to be undergone, with a view to ascertain their qualifications for Office, and to initiate them into the practical business of the Tribunals. Candidates who have successfully passed through the first of these Examinations rise to the rank of *Auscultator;* after the second, they proceed to the Degree of *Referendarius;* the third, or, as it is called, the Great State Examination, places them on the bench as *Assessors;* at which stage they take an active—though subordinate and laborious—share in the exercise of the Judicial duties; in all the three capacities, however, without salary or emolument of any kind.

In Prussia Proper, the Great State Examination is required only from candidates for membership of the two Superior Courts, and for the Office of President in all the Courts. Judges, Magistrates, Advocates, and Notaries in Cities containing less than 10,000 inhabitants, are excused this third trial.

29. Every Candidate must bring with him Certificates of attendance upon the usual Course of Law Lectures at a University for three whole years, comprehending all the subjects enumerated in sect. 17. In the Rhenish Provinces of Prussia two additional subjects are introduced, viz., Rhenish Law and Rhenish Procedure. Only those who can exhibit unexceptionable testimonials of having regularly and diligently attended those Lectures, as well as of having conducted themselves well at the University, are admitted to this *first* examination. Each Candidate must, moreover, prove to the satisfaction of the Examiner that he has sufficient means of subsistence to last him through all his probations. Very particular attention is paid to this qualification. Then, before admission to this first trial, he must declare in which of the Inferior Courts (Kreis or Amts-Gerichte) he proposes to begin his career.

30. The Examination then proceeds, both orally and in writing, in the various subjects studied at the University. When successful, the Candidate is sworn in as *Auscultator*, (Hearer or Apprentice to the Law) at one of the inferior Tribunals (Tribunals of First Instance, Kreis and Amts-Gerichte). Here, under the instruction of some member of the College of Judges, to whom he is assigned as a pupil, he familiarises himself with the whole course of Judicial Business, from the Office of Simple Clerk or Writer in the several bureaus up to that of the Judge. He makes digests of the cases before the Court, with detailed argumentations, and his own conclusions thereupon, for the opinion of the Judges. He makes Reports and Protocols, and takes down evidence; draws up and registers Proceedings for the

use of the Court. He acts as Clerk to the Magistrates in Criminal Proceedings, and learns to draw Judgments and Decrees both in Civil and Criminal matters. During the whole of the period thus spent, the "Hearer of Law" is required not to discontinue his theoretical studies, more especially directing his attention to the divergencies of the Roman, the Prussian, and the Germanic Systems of Law. Every quarter the "Hearer" is required to make a report, in writing, to the Court, of his studies and occupations during that period; and must apply for and receive from the Members of the Tribunal attestations as to the duration of his several occupations—the activity, diligence, and ability exhibited in the course of them. These certificates must be exhibited when he applies to be admitted to his second Examination.

Mr. Greenwood's Report, &c.—*cont.*

31. Having passed through this ordeal, and supplied himself with a further Certificate attesting his *orderly and moral conduct as "Hearer of Law,"* he asks to be admitted a Candidate for the degree of "*Referendarius.*" The Examination at this stage consists of a great variety of subjects, both theoretical and practical, in which he is presumed to have perfected himself in the preceding stage. Then, after its successful termination, a detailed report on each particular topic of Examination is drawn up by the Examining Judges, and transmitted, together with all the preceding Certificates, to the Minister of Justice, who thereupon issues his Warrant of Appointment as "Referendarius."

32. After appointment, the new Refendary has to spend half a year apparently at his old occupations in the inferior court; then a three months' course of practice in taking Inquisitions and evidence, both in Civil and Criminal proceedings; after that, a third course of attendance for the space of twelve months, for the purpose of perfecting himself in every department of Written Pleading in all the variety of Actions before the Court. He is sometimes allowed to defend Actions, and is occasionally assigned by the Court as assistant or Legal adviser to the parties in minor Causes. He is required to draw up argumentative statements, and to accompany them with independent opinions upon the Legal merits of Causes, both in Civil and Criminal matters, under the supervision of the Court. He also acts the part of a Master in taxing Accounts between parties, and other matters of inquiry delegated to him; and draws up the Orders of the Court thereupon, according to directions received. After thus spending twelve months of his time, he passes into the Office of the Advocate or Attorney-General of the Government. Here he spends three months, and then transfers himself, with the requisite Certificate of such attendance, to the Chambers of an Advocate of the second Instance or Tribunal of Appeal, where he exercises himself in oral pleading; and, by leave of the Court, is qualified to act as Counsel to parties in Causes of minor moment.

This part of his probation lasts six months; and a Certificate of proficiency is given by his tutor. He is then transferred for another term of six months to the Court of Appeal or Second Instance itself, where his occupations very much resemble those past through in the Court below.

From his nomination as Refendary, to the period of maturity for the Third or State Examination, a term of at least two years and a half must have elapsed.

33. The Third or Great State Examination is not required of those who have to practise as Advocates, or confine themselves to the duties of Puisne Judges in the Courts of First Instance (Kreis or Amts-Gerichte). Those who desire to pursue the higher career go before a Special Commissioner of the Superior Courts for Examination. The subjects of this probation are of a higher character, and touch upon the whole theory and philosophy of Jurisprudence. The Candidate, moreover, must exhibit a perfect familiarity with Legal statement, narrative, and argument ("relation"), and conclude his exercises with a judgment upon the state of facts proposed, and the application of the Law thereto. The subjects of these probationary exercises are selected from among the cases of weight and difficulty then actually pending before the Superior Courts. The Candidate must not only display a thorough knowledge of the Law, but also a facility of analyzing and explaining a complicated state of Law and fact. All this he must do shortly, yet clearly and correctly; and in the application of the Law to the facts he must hit the right points. Moreover, the Candidate is held to support his statement and opinions by oral argumentation, so as to test his reflective powers, as well as his readiness in Legal debate.

It is expressly ordered, that this last probation shall be conducted with severity, and the strictest adherence to the subsisting regulations on the subject.

34. When the Probationer is declared competent, he is nominated by the Minister of Justice, on behalf of the King, "*Assessor*" of Court. Still this Degree or stage does not confer Judicial Office or emolument. It consitutes simply a qualification for that office, and all the highest Law appointments, without further probation, as soon as a vacancy may occur. Meanwhile the "Assessor" performs gratuitously a variety of Judicial or forensic duties, by way of proving his zeal for his Profession, and of perfecting himself in the practical exercise of the Judicial functions. As Assessors to the Court they attend upon the Bench, but have no absolute vote in the decision of Causes, but only a "votum consultativum."

35. At this stage the "status pupillaris" of the Law Student terminates, though as yet he receives neither salary nor acknowledgment for his services. It will be observed, even from this imperfect sketch, that the regulations for testing his fitness at every stage are very numerous and minute. The time required for passing through all the stages of probation, from the time of quitting the University till he attains the degree of Assessor, cannot be much less than six or seven years; and even after that, he has to wait for a vacancy before he reaps

Mr. Greenwood's Report, &c.—*cont.*

the fruits of his labours. It should, however, be borne in mind, that as neither Magistrates of Inferior Courts, nor Advocates, nor Notaries, are required to undergo the third probation, they may receive their appointments at a somewhat earlier period. In all other respects the education of the Judge and the Advocate are identical. They sever only at the last stage.

IV. *Practical Advantages and Disadvantages resulting from this System, &c.*

36. Among the practical men (not Lawyers) whom I have consulted, the impression is, that the result of this System of Legal Education and probation has been to produce an excellent body of Judicial Officers, enjoying the entire confidence of the public; but they do not speak quite so favourably of the Advocates. The decision of Causes in these Courts is very prompt, the most difficult and complicated Suits very rarely lasting more than six months; and Actions at Law are attended with less expense than in any other part of Germany, or perhaps in Europe. The system of revision adopted by the Superior Courts is believed to have a very beneficial operation in securing consistency of decision and perfect correctness of procedure. The functions of the Courts of Appeal seem directed rather to correct the errors than to reverse the decisions of the Inferior Courts.

37. Dr. Mittemaier, however, states, that in some countries of Germany, where an "untoward" political state of things exists, the Governments look less to intelligence and integrity in their Judicial Appointments than to conformity of political opinion. This, he says, injures the credit of the Judges in Criminal inquiries, but more particularly in Political trials, or such when Government has an interest in the result. Upon the Prussian system of training, Dr. Gneist observes that it forms a part of that "bureaucratical" system which prevails in every department of the Government, originating in that anti-constitutional spirit which pervades the whole structure of the administrative system. It produces, indeed, a respectable class of Public Officers, and has a kind of administrative convenience for the public; but it is the sworn foe of every approach to parliamentary or self government. It has, however, he adds, had the good effect of opening the higher offices in the Law and in the State, formerly engrossed by the noblesse, to men of ability among the middle classes. It is, therefore, not unpopular in Germany, though not suited to any country having free institutions.

38. With regard to the balance of advantage in the Legal Profession, resulting from the multiplicity and severity of Examinations, Doctor *Mittemaier* thinks that it is not so favourable as many persons imagine. Too much, he says, is made to depend upon the caprices, the peculiar turn of mind and study, or the favouritism of the Examiners. Again, minds of very inferior calibre, possessing only industry and good memories, are apt to pass with ease, while youths of distinguished capacity, from diffidence, or want of moral courage, are sent back. Besides this, he thinks that the Examinations themselves are not upon a plan adapted to furnish any certain criterion of that sterling strength of intellect and practical readiness of apprehension required for the performance of Legal functions.

39. Generally upon the balance of advantages resulting from the whole System of Legal training in Germany, Dr. Gneist thus sums up his personal experience:—"I have," says that gentleman, "been fifteen years a Lawyer in practice; ten years of this period, a Puisnè Judge "of the Superior and at the Supreme Court of Prussia. For five years I was a Lecturer, and "have been now ten years Professor of Civil and Criminal Law at this University (Berlin). I "consider myself, therefore, competent to pronounce, that the Legal Education of the "German Universities works well for the Education of good Advocates and Judges, and "that we owe a great deal of the present state of our (Legal) Legislation and practice "of the Courts, which is, perhaps, the best on the Continent, to the method of Lectures "in our Universities." He thinks that the defects in the German system of Legal administration are not to be imputed to the consequences of the predominance of the theory over the practice, but to the effects of their political institutions, which merge the character of Judges and Advocates in that of Servants of the State. "Judges of the Superior Courts "are now chosen solely from among the Judges and Officers of the Inferior Courts. This I "regard as a perverse system, and should regard it as a most important reform to choose all "Judges out of the number of excellent Advocates, as was the case in Prussia till about "the middle of last century. Now, instead of opening the Bar to free competition, the "Ministry of Justice has, since the year 1849, followed the plan of leaving vacant a number "of Advocates' places in the different Courts, in order to keep the Bar in a certain state of "dependence by a species of monopoly." These inconveniences, he remarks, stand in no connexion with the scientific system of Legal Education pursued either at the Universities or in the Courts of Law.

40. Professor *Mittemaier* considers it to be a great advantage to the administration of the Law in England that all the Judges are taken from the rank of practising Advocates, while in Germany it rarely happens that the best Advocates ever become Judges. The young men, as soon as they have finished their studies at the Universities, are transferred at once to the Law Courts as Apprentices or Assessors; they know nothing of the interests or duties of the Advocate, and, with a view to their more speedy promotion, generally surrender themselves to the political views of the Government. In England, on the other hand, the Judge, by virtue of his long service as a Barrister, is more familiarly acquainted with and acquires a greater sympathy for popular rights and the wants of society; he brings with him to the Bench a greater independence of character and a firmer disposition, fearlessly to maintain and defend the right.

Dr. Wahloff entertains a similar opinion on this subject.

41. As to the *practical effect* of the general Course of Legal Education pursued in Ger

many, Dr. Wahloff remarks, that in the greater number of States the Legal institutions and regulations respecting Advocates and Judges are not of a nature to call into existence any great or unusual amount of Legal ability. The Judges are too numerous, their salaries a great deal too low, and their duties, for the most part, of a very restricted and subordinate character. The Advocates do not stand upon a higher level as Jurists, neither are they sufficiently rewarded; yet this state of things he declares to be in no manner attributable to the system of University Education.

V. *Study of the Roman Civil Law and Canon Law, &c.*

42. With reference to the study of the Roman Law, Dr. Gneist thus states his opinion :— "I think the study of the Roman law *essential* to a systematic Legal Education, and I fully "subscribe to what Chancellor Kent (Comment. 1, p. 546, 547) says upon the subject. The "value of the Civil Law is not to be found in questions which relate to the connexion between "the Government and the people, or in provisions for personal security in Criminal Cases. In "everything that concerns civil and political liberty it cannot be compared with the free spirit "of the English and American Common Law; but upon subjects relating to private rights and "personal contracts, and the duties which flow from them, there is no system of Law in which "principles are investigated with more good sense, or declared and enforced with more "accurate and impartial justice."

43. "We admit," says the same gentleman, "that we owe the systematic form of our "*German Private Law*, as it now stands, and of our general Legislation, in a great degree to "that study. It is true that with us the Common Law, Equity, Bankruptcy, and Ecclesiastical "Judicature are united in the same sets of Courts, but you will find that our Lawyers are gene- "rally skilled in all branches; that Judges pass over with facility to the Bar, Barristers to the "Bench; that they are able easily to gather up and to combine the Laws of different ages, "general and special customs; and all this we owe, for the most part, to the study of the "Roman Law. A separation of the different branches of the Profession, no doubt, makes "the Lawyer more skilful in his particular branch; yet *that* we think ought not to dispense "with a preceding Legal instruction in *all* the branches. By following this course we have got "rid of a vast mass of Laws, and to that we attribute the superior framing of all our modern "Statutes, the caution with which our very important Law Reforms have been conducted, "their determinate character, and the absence of all confusion.

"You will find very much the same opinion entertained by the best class of Lawyers in "the United States. The Roman Law in Germany is studied for three reasons:—

"I. As the Law of Property and Contracts legally applicable in all the States, where the old "Germanic Law is still in force, because the Civil Law is the prevailing element in that Law.

"II. Because it forms in a great part the historical and scientific basis of the Prussian, "Austrian, and French Codes.

"III. It is considered as the very philosophy of private rights, a model of systematic "perfection in Legal reasoning; and, as a general introduction to the study of the Law it is "regarded *as of the same importance to* the education of the accomplished Lawyer *as classical* "*studies to the general scholar.*

"It is true that the constitutional principles of the Roman Law are despotic; but these "principles are separable from the *merits of that portion* of the code which treats of private "rights; and this portion, when brought into due combination with the Germanic principles "of self-government and Parliamentary rights, is quite consistent with the spirit of a free "constitution."

44. Dr. *Gneist* says elsewhere that the study of the method of the Roman Law has, in Germany, been of the greatest utility, both in Legislation and in the practice of the Courts; and this advantage it is quite calculated to confer everywhere else, without altering the substance of the National Law.

45. Dr. *Warnkönig* observes on the same subject, that he entertains no doubt that the method of Legal Study pursued in Germany is preferable to that of France, Belgium, or any other Continental State. As to its applicability to the study of English Law, he says, "There "can be no question about a pure and simple introduction of the method adopted in Germany. "That method can only be applicable for the purposes of adaptation and limitation, not of "alteration. But for this purpose it would be requisite to enter into and comprehend the "spirit of German Jurisprudence."

46. Dr. *Wangerow*, Professor of Roman Civil Law at the University of Heidelberg, in reply to one of the written questions above alluded to, observes, that it his intimate conviction that a more profound study of the Roman Law in England must form the indispensable basis of Jurisprudential instruction. He supports this opinion principally upon two grounds:—

I. It is universally admitted that the Roman Law, more especially that part which relates to Private Rights, is so scientifically developed, even to the most delicate detail, that no Law of any nation, ancient or modern, can be in the remotest respect compared with it. The great Roman Jurists, from whose writings the Pandects of Justinian were compiled, have never been surpassed by modern Jurists. They are equally great as interpreters as they are as casuists; with incomparable sagacity they extract from given Laws new modes of application (Rechts-Normen), and with wonderful Legal tact they determine the most difficult and complicated cases. In my estimation there is no better mode of cultivating the science of Legal thinking, and the interpretation of Laws, than the study of their works. This alone should induce us to regard a thorough study of the Roman Law as indispensable to form a good Lawyer.

Mr. Greenwood's Report, &c.—*cont.*

II. The second ground for this opinion rests upon the fact, that since the twelfth century the Roman Law was universally studied in all European Countries; it was, in fact, the only Law upon which the learned ever bestowed a thought. This exclusive study produced a Legal literature, rich in instruction; a literature that modern Jurists cannot cast aside, without culpably checking the progress of Legal science—laying, in fact, at the infinite risk of failure and disappointment, a new foundation for the whole Legal structure.

47. *Dr. Mittemaier* thus expresses himself respecting the value of the study of the civil law:—"I am of opinion that the study of the Roman Law is essential to an accomplished "Legal Education, because the Roman Jurists were men of incomparable acuteness, discrimi- "nation, and sense of practical utility. Therefore their determinations upon the more difficult "questions of Law must for ever retain their value, side by side, with every other system of "Law; and at the same time contribute greatly to improve the science of Legal Legislation. "Hence, in the earlier times, the Roman Law was called the 'Naturalis ratio,' and by the "French Lawyers the 'Raison écrite.'"

This admiration for the Roman Law, the Professor observes, however, produced in Germany an almost exclusive preference for the study, and a prepossession prejudicial to the cultivation of the National Law. He therefore recommends, that wherever it is introduced it should be regarded only as introductory to the study of the National Law.

48. *Dr. Wahloff* says, "The Roman Law is, without doubt, partly by reason of the cha- "racter of its sources, but principally in consequence of its having been for many centuries "the subject of universal and most elaborate cultivation, the best school for forming the Legal "mind." But he restricts this observation, in its wider extent, to those States in which the Roman Law is either the substance of the National Law (as it is in the old Germanic Law), or where it enters into its constitution as an elementary portion. Great reserve, he thinks, would be requisite where the Roman Law is wholly ignored in the origin and composition of the National Law, as it is in England.

VII. *As to the Study of the Roman Civil Law as a preparatory step in the education of the English Lawyers, &c.*

49. Upon this subject, Dr. Mittemaier observes:—"I do not think that any severely "systematic adoption of the principles of the Roman Law would work well in England, if "thereby is meant that certain decisions of that Law should be regarded as binding upon "the Judges. This would make matters worse than they are, inasmuch as thereby the "improvement of English Law would be rather impeded than promoted; while, as matters "now stand, the English Judges have the means in their hands of supplying the exigences of "each particular case as they arise, of bringing under consideration all those changes of "circumstances, which the lapse of time brings along with it; and thus, adopting the Law "to the requirements of every case." On the other hand, he thinks, that, upon the general grounds already specified, the study of the Roman Law ought to be more assiduously pursued than at present, with a view to the general improvement of the Legal mind, and the cultivation of Law as a science. This opinion, however, he expressly guards by stipulating that the Roman Law, both as a Code and as a study, be not blindly followed, but be made use of solely in laying the foundation of a more solid system of National English Law.

50. Dr. Wahloff entertains similar views. "The Laws of England," he says, "rest upon "a different basis from those of any other European Country, and present a widely different "aspect. In England not only has the Roman Law never had the authority of positive Law in any "material degree, but the National Law itself rests upon an essentially different basis, namely, "the Germanic platform of Legal apprehension. It is therefore to be feared, that if the scientific "education of the English Lawyer be placed too exclusively upon the foundation of Roman Law, "*two* great inconveniences might arise: *First*, the whole introductory system of study would "contribute nothing to a competent acquaintance with the operative Law of the land; and, "secondly, the whole formal education of the Law Student would come to rest upon a foreign "anomalous basis. The categorical propositions with which he would have become familiar "by the study of the Roman Law would tend to confuse his mind. The fictions of Law, in "the two systems, are wholly different, and their application to English Law would lead to "false conclusions. The spirit of the two Laws, as it regards the highest legal interests, *e.g.*, "the regulation of landed property, and the whole Law of Inheritance, have no resemblance to "each other, consequently, a habit of conceiving and treating them upon Roman ideas must "engender the most serious errors; hence, it seems to me, that to the English Lawyer the "Roman Law ought to be regarded in no other light than as a general instrument of education. "But it would, nevertheless, be exceedingly useful to him to acquire a general acquaintance "with a system of Law which, in the unanimous opinion of the whole civilized world, "exhibits a masterwork of sound Logic and elaborate cultivation. By acquiring, in the first "instance, such a general knowledge of this system of Law he will be prepared to study it "more scientifically and effectively whenever his career of practice, *e.g.*, in the Ecclesias- "tical or Admiralty Courts and in the Courts of Colonial Appeal, shall render such study "necessary. For this purpose, however, it would be only requisite to pass through a course "of the *Institutes and History of* Roman Law. The right path to a useful scientific education "for the English Lawyers (if a Foreigner may venture an opinion on the subject) would, "regard being always had to the great object, namely, that of forming a scientific *English* "*Lawyer*, probably be the following:—1st, Encyclopædia of Law; 2nd, Philosophy of Law. "3rd, Institutes and History of Roman Law; 4th, International Law. These preliminary

" studies might then be followed up either at the Universities or the Law Schools by a copious, " comprehensive, and systematic instruction in English Law, in all its departments; which " department ought, in my view, to consist of four subjects:—1st, Civil or Private Law; " 2nd, Criminal Law; 3rd, Constitutional Law; 4th, the Law of Procedure. This course of " study, however, can only be made effectual by the composition of good systematic Manuals " of Study for each department, to serve as a basis of instruction and useful guides for private " Study. If no such books be in existence, it is of primary importance that immediate " attention should be given to their composition and publication." Mr. Greenwood's Report, &c.—*cont.*

51. *Dr. Gneist* would recommend an extensive system of study upon the German plan. He is an advocate of the voluntary system, and upon this principle he would recommend, but not prescribe, the following courses of reading in our Law Schools:—

1. *Encyclopædia of the English Law*, following the Commentaries of Blackstone in their original form.
2. *History and Institutions* of Roman Law, following some standard German Work.
3. History of the English Law, reduced to a Manual, and compiled from the excellent materials in Reeve, Hallam, Hale, &c., comprising also the ancient Germanic Law of the Middle Ages.
4. *The Law of Real Property* considered together with the private Germanic Law.
5. *History, and General Principles and Practice of the Law of Equity.*
6. A sketch *of the Canon Law* in its connexion with the State of the English Church and its Jurisdiction.
7. The *actual Constitutional Law* of England, comprehending a general view of the legislation of the 19th century.
8. Criminal Law.
9. Criminal Procedure and Medical Jurisprudence.
10. International Law.
11. Leading Cases; Theory of Pleading; Law of Evidence, &c.
12. Political Economy.

He proposes that these subjects should all be treated in an analytical method and under a philosophical view of their subjects and relations to each other, and not discursively or with a view to any special portions, but generally and substantially.

52. A few desultory observations of Dr. Gneist in conversation are here subjoined—

1. As to the utility of *Examinations*:—They tend to bring forward and encourage talent, and to stimulate ambition in all classes of Students; they put all in the way, but they do not decide much as to fitness, that can only be tested by actual practice.
2. Education in England is aristocratic; it excludes the poorer classes. In Germany the son of the peasant and the Prime Minister stand upon the same level as to opportunities both of study and advancement.
3. The Roman Law is not *now* the *only* scheme of Law reduced to a systematic form in Germany; the old Germanic Common Law has been systematically digested, and is now systematically studied. That Law rests upon foundations in many respects very closely resembling the Common Law of England; both are derived from the same sources (e.g., the old Anglo-Saxon Law); they have many Law Terms and Principles in common. Dr. Gneist has no doubt but that the English Common Law might be similarly treated.
4. Thinks that any attempt to amalgamate the Courts of Law and Equity in England would be inexpedient. The Courts of Germany often experience difficulty in separating strictly Legal from Equitable considerations; it would stand very much in the way of the Trial by Jury in Civil Cases, owing to the difficulty of arriving at a proper issue of facts fit for a Jury to try. He thinks that there ought to be strict Rules of Law to direct the Judges; but that the equitable Jurisdiction of our Courts of Chancery ought to be materially extended, yet without fusion.

This gentleman possesses a very extensive general knowledge of English Jurisprudence, and is now engaged in delivering an elaborate course of Lectures upon English Constitutional Law to the Students of the University of Berlin, of which he has favoured me with a printed synopsis.

The materials from which this Report is compiled consist of manuscript answers to certain written questions proposed to the following gentlemen:—

1. *Dr. Rudolph Gneist*, Professor of Public Law at the University of Berlin (English).
2. *Dr. L. A. Warnkönig*, Professor of Law in the University of Tübingen (French.)
3. *Dr. Mittemaier*, Professor of Law at the University of Heidelberg (German, translated in manuscript).
4. *Dr. v. Wangerow*, Professor of Law at the University of Heidelberg (German).
5. *Dr. v. Wahloff*, Professor of Law at the University of Heidelberg (German, translated in manuscript).

Besides this written information, I have given insertion to several matters which came up in conversation with other gentlemen practically conversant with the system, and the results of Legal Education in most parts of that great country.

(Signed) THOMAS GREENWOOD.

Gray's Inn, 2nd December 1854.

Letter from Signor J. P. Lacaita to Vice-Chancellor Wood.

Letter from Signor J. P. LACAITA (a member of the Neapolitan Bar) to Vice-Chancellor Sir William Page Wood.

2, John Street, Berkeley Square, March 6.

DEAR SIR,

I TAKE the liberty of inclosing a short sketch of the Examinations a young man must undergo in the Kingdom of the Two Sicilies before he has the *Laurea* or Diploma which enables him to practise before any Court.

With many apologies for the delay, as well as for the bad English in which the sketch is written,

I remain, &c.

J. P. LACAITA.

Statement from ditto.

In the Kingdom of the Two Sicilies any one intended for the Profession of the Law, after passing his examination in *Belles Lettres*, must undergo a Course of Examinations before a Board of the Professors of Law in one of the Universities of the Kingdom. These examinations fall on the following subjects:—

1. Jus Naturæ et Gentium. The Text made use of is *Heineccii de Jure Naturæ et Gentium.*
2. Civil Law. The Text made use of is Justinian's Institutes.
3. Neapolitan Civil Laws. The Texts are parts 1st and 3d of the Neapolitan Code, published in 1819.
4. Neapolitan Criminal Laws. The Texts are parts 2d and 4th of the Neapolitan Code.
5. Commercial Laws. The Text is part 5th of the Neapolitan Code.

The Examination in *Canon Law* is left at the option of the Candidate.

The Examination on subjects stated in Nos. 1 and 2 is carried on in Latin.

The young Lawyer who has passed his Examination in a satisfactory manner receives a Diploma, called *Laurea*, which enables him to practise before any Court in the Kingdom.

The different subjects upon which the Examination takes place can be studied either with a private Lecturer or at one of the Universities, where there are Professors appointed by Government to give Lectures *gratis* on every branch of knowledge.

The preparatory Course of Legal studies to enable a young man to pass his Examination takes from four to five years.

JAMES PHILIP LACAITA, LL.D.

2, John Street, Berkeley Square, March 5, 1855.

The Opinion of Mr. Lavie.

The Opinion of Mr. LAVIE.

Observations.

The Bar is a monopoly, and the public have a right to impose conditions on the enjoyment of that monopoly.

It appears indeed impliedly to be admitted by all that there is not an absolute right on the part of any man to be admitted, either as a Student into the Inns of Court or as a Member of the Bar, and one qualification, viz., that of respectability, has, always been an absolute condition, both for being admitted and continuing either a Member of an Inn of Court or of the Bar.

But it is strange enough that this qualification has for many years been practically the only qualification.

What the Commission has to consider, amongst other things, is, the principal and most important question, viz.:—

"What ought to be the conditions upon which a man is to have the privilege of the monopoly of being a Barrister?"

I think it will be found if anything is to be recommended at all (that is to say, unless we are prepared to consider that the existing system works well, and that nothing more is necessary), that no conclusion can be logically come to except that there must be an Examination before a man is called to the Bar; and I further think it will be found (unless we are prepared to say that a liberal education is not necessary for a Barrister), that an Examination of a Student before Admission into an Inn of Court is necessary.

As to the Admission to the Bar,—

1st. *Theoretically,* it will probably not be denied that there is another qualification besides respectability which ought to exist before a man is called, and which the public has a right to impose, as a condition for admission, viz.:—

That he should have a fair average degree of information of Law.

There may be no mischief in an infinity of respectable men being admitted to the Bar with a total ignorance of Law; but it would appear as odd to report that the privilege might be given of performing the important functions of a Lawyer without a knowledge of Law as to perform the functions of a Physician without a knowledge of Physic.

At all events, it would appear that no Commission dealing with the subject could admit that a man has *a right* to be a Lawyer without any knowledge of Law at all.

It is equally difficult to lay it down as a general proposition, that exclusion of men ignorant of Law is any mischief to the public.

2d. The necessity that a man must be a Member of an Inn for a certain time, and must keep a certain number of Terms, appears to admit the principle that a man must have learnt Law enough to be fit, *to a certain extent,* to practise at the Bar.

Mr. Lavie's Opinion—*cont.*

The time was fixed as necessary for the preparation for the Bar, by acquiring Law; and such preparation and acquirement of Law was for the purpose of qualification.

3d. The practical informality of the system has been, that a man either too stupid or too idle to learn has hitherto had a right to admission, although during the time of keeping Terms he learnt nothing. The mere passing of the time, and a certain constructive residence in an Inn of Court as a Student, gave him the absolute right to be called to the Bar if respectable, though he knew no Law at all.

4th. In reasoning, it appears difficult to say that mere respectability, without any Legal knowledge in fact, should be sufficient, any more than Legal knowledge alone without respectability, for participating in the monopoly of the Bar.

5th. Assume, then, that every Barrister ought to be not only respectable, but also to have an average or even some knowledge of law before he is called. The necessity for an Examination before being called to the Bar becomes absolute, because it is only by an Examination that the qualification can be ascertained.

Then, as to the Examination of Students,—

6th. The respectability which has hitherto been considered necessary to entitle a man to be a Student was a mere respectability of conduct and character.

It is generally assumed that a Member of the Bar must be what is called a *Gentleman.*

It is equally assumed that a liberal education is absolutely necessary for every Gentleman.

But no test has ever been practically applied to secure the admission of Gentlemen.

[In using the word Gentlemen, it is not meant that birth is in any way to enter into the consideration.]

7th. Unless it were assumed, on the other hand (which it has never been hitherto), that every man of good character should be admitted a Student as a matter of right, and whether in manner or acquirements a Gentleman or not, it appears to be quite within the proper functions of the Inns of Court to require that an applicant to become a Student should have had a liberal education, because a liberal education is a necessary incident of a Gentleman.

8th. Then again, therefore, if there be the qualification necessary of a liberal education, there must be some test before the Student is admitted, and the only test is an Examination.

9th .It may be repeated, therefore, that those who contend against Examinations must admit, if they are logical, that the Inns of Court must be open to everybody who has respectability of character and conduct, and that the Bar must be open to the same extent.

It is therefore to be determined by the Commission what is to be the principle on which the Commissioners are to be guided in their Report.

Is a man without a liberal education and without any knowledge of Law, however respectable, to be *by right* a barrister?

10. Those who object that a man of mature age ought not to be again subjected to an Examination (either before admission as Student or before the call) practically contend, though they may not theoretically do so, for the absolute right of every man who is respectable to study at the Inns of Court and to practise at the Bar.

The objection on the score of the personal annoyance of an Examination cannot prevail against the absolute necessity of the case. No other test by which the qualification can be ascertained has been or can be suggested, and if all men are subjected to it all will suffer alike, and there will be no degradation in it.

11. Those who object that an Examination may deter men from being Members of the Bar who wish it only to become Magistrates, &c., must make the same assertion of the positive right of a man to be called to the Bar; and they must further admit that any knowledge of the Law is not requisite even for a Magistrate, because they refuse to admit the only test by which it can be known whether any knowledge of the Law exists or not.

The system hitherto prevailing has worked well enough in the opinion of many; and if the public attention had not been drawn to it, it might have perhaps been safe enough to have let it go on as heretofore.

But the Commissioners are called upon in substance to report, whether there are at present any tests of fitness for the Bar; and they must report that there are no tests either of the fitness of the Candidate to be admitted from his previous education to become a Member of a Profession which is emphatically a Society of Gentlemen, or by his knowledge of the Law to fulfil the duties of a Barrister.

And if they are to suggest any test for either admission, it can, for the reasons already stated, be only the test of Examination.

The practical difficulty of finding Examiners suitable and willing for such duties is a grave consideration.

The question as to Lectures, or attending at Chambers, and the relative value of each, and the consideration how far either shall be compulsory, appear to involve considerations only independent of the question of Examination. They can only be the means by which a man is to fit himself for an Examination. They are founded on opinions and experience, and there is considerable difference of opinion even amongst the experienced.

But the question of Examination or no Examination appears to be what must be absolutely dealt with in the first instance.

Suggestions for Interrogatories prepared by the Vice-Chancellor Wood.

Suggestions for Interrogatories.

(Prepared by the Vice-Chancellor Sir W. P. Wood.)

Admission of Students.

1. Should there be any Examination of persons applying to be admitted as Students at any of the Inns of Court?

2. Should this Examination (if any) be directed towards ascertaining the competency of the Candidates in respect of general information, or in respect of an elementary knowledge of Jurisprudence, or both?

3. Should it include an Examination in Classical Literature in either the Greek or Latin Language, or both?

4. Should any exception be made in respect of Graduates of the Universities?

5. Should any preliminary attendance at Lectures be required?

6. Should a Certificate of a Barrister, of a certain number of years standing, that he had examined the party and found him competent, be admitted as sufficient for the purpose of entering a Student?

7. Should a like Certificate from the Incorporated Law Society, or the fact of a person having been admitted as an Attorney, be sufficient to authorize the admission of a Student?

Period of Studentship.

1. Should the present system of compulsory attendance at Lectures, except by parties willing to offer themselves for voluntary Examination, be continued? or

2. Should all parties before being called to the Bar be required to submit themselves to Examination?

3. Should there be any Examination on the subjects of the Lectures, either at the end of each Term, or annually, or at other periods besides the final Examination?

4. If the Examination continue voluntary, should any further facilities be afforded to those who are willing to submit themselves to it of shortening the period of Studentship than are now afforded, by allowing two Terms to a limited number of the most distinguished Students?

5. Should facilities be afforded in particular to Students of more advanced years who are willing to submit to Examination with a view to shorten the duration of their Studentship?

6. Should opportunities be afforded to the Students of discussing points of Law, and of exercising themselves as Advocates in Cases to be suggested for that purpose by the Reader?

The General Regulation and Government of Students.

1. Should the regulations as to the admission of Students and calling to the Bar be uniform in the several Inns of Court,

1st, With regard to Examinations, attendance at Lectures, and the like;

2d, With regard to the payments to be made by the Students?

2. Should Lectures and Examinations be conducted by the several Inns respectively, or by a general Board selected from the Members of each Inn?

3. Should questions as to the admission or rejection of a person applying to become a student or to be called to the Bar, or the expulsion of Students or Barristers, in respect of conduct, be left to the decision of each Inn, or be submitted to a general Board selected from the Members of each Inn?

4. Would it be advisable to incorporate the respective Inns?

5. Would it be advisable to incorporate any General Board the Members of which should be elected by the several Inns for the purpose of conducting Legal Education, or for determining questions of conduct of Students and Barristers, or for both of such purposes?

6. If so, would it be further expedient to establish a Faculty of Law, and to confer Degrees?

7. Might such Degree be distinct from a call to the Bar, and be either exempted from or subject to a Law Stamp only, so as to enable Students who should not be desirous of practising (such as Country Gentlemen and others desirous of obtaining Legal information) to acquire a Certificate of their Legal acquirements?

8. If so, should the Degree entitle the Graduate, on payment of certain fees and the present Stamp Duty, to be at any time called to the Bar?

Queries prepared by Mr. Greenwood.

Queries.

(Prepared by Mr. Greenwood.)

General.

1. How does the System of Legal Education, as at present established by the four Inns of Court, work?

2. What is the proportion of numbers of those who attend your Public Lectures to those who attend your Private Classes, and of each and both to those who submit to Examinations?

3. Have the numbers of Students who attend Lectures and Private Classes, and of those who submit to Examination, increased or diminished from the establishment of the system

of the four Inns of Court to the present time? What are the fluctuations, and to what causes do you attribute them? Queries prepared by Mr. Greenwood —*cont.*

4. Among the Students who attend your Private Classes, or submit to Examination, do you from time to time trace improvement?

5. Has at any time complaint been made to you by Students or Examiners of want of time to prosecute their studies in Chambers, owing to the necessity of attending Lectures and Private Classes, and of preparing for Examination?

6. Have you conversed with the other Readers upon the subject? And if so, can you state the impression resulting from such conversation upon your own mind?

Chamber Study.

7. Generally, what is your opinion of the expediency of attending the Chambers of a Practising Barrister (Special Pleader, Chancery Draftsman, or Conveyancer,) as a mode of preparation for the Bar? And can you suggest any method of study that might be advantageously substituted for it?

8. In your opinion, do the Lectures and Class attendances, as at present constituted, produce a beneficial or a prejudicial effect upon the course of Chamber study?

9. Can you suggest any alteration or improvement in the present system which might render Chamber instruction more effective?

10. Upon the supposition of a three years' course of preparation for the Bar, do you think that a Student of ordinary diligence and ability could command time enough for a beneficial study of the Civil Law, General Jurisprudence, International Law, or of any other branches of Legal acquirement but that to which he proposes to devote himself at the Bar?

11. Is it your opinion that such a course of study would require such an extension of the time and increase of the expense of preparation for the Bar as to exclude the poorer class of Students?

12. Do you think that within the three years a useful knowledge of General Jurisprudence might be acquired, consistently with a due attention to the principal subject of study? Or do you think it inexpedient to treat such acquirements as the subjects of educational instruction, and that it would be better left to the unfettered discretion of the Student?

13. Generally, are you of opinion that any extension of the system as adopted by the four Inns of Court would require an extension of the time and increase of the expense of an efficient Legal Education?

Examinations.

14. Have you formed any opinion as to the expediency of compulsory Examinations?

15. Upon the supposition that compulsory Examinations are expedient, do you think that the studies those Examinations might embrace should likewise be compulsory?

16. Do you conceive that the full benefit of attendance upon Lectures can be derived by any Student who is not also subject to an Examination upon them?

17. Is there not reason to apprehend that, unless the Lectures be attended by Examinations, compulsory attendance upon them may dwindle into a merely nominal attendance?

18. Do you think that attendance upon Lectures without private tuition is likely to be attended with benefit to the Students?

19. Have you formed any opinion as to the expediency of an Examination preliminary to the admission of a Student at an Inn of Court?

20. If you should think such an Examination expedient, what ought to be the object, and what the subjects of such examination?

21. Supposing that a liberal education be a sine quâ non of admittance to study for the Bar, might not some general knowledge of Law and Jurisprudence be advantageously made the subject of such preliminary Examination?

Compulsory Examinations for the Bar.

22. From the effects actually produced by voluntary Examinations under the present system of Legal study, can you form any judgment of what would be the effect upon the whole mass of Students for the Bar by rendering those Examinations compulsory and general?

23. If, on the one hand, you should be of opinion that compulsory Examinations might deter many men from the study of the Law, might not, on the other hand, that disadvantage be compensated by opening an avenue to distinction to those who might submit to them, by raising the character of the rising practitioners, and increasing the confidence of the public in the Profession generally?

24. Have you ever considered the expediency of combined action of the Universities and the Inns of Court with reference to Legal study?

25. If so, do you not think that some arrangement might be entered into between those Bodies whereby the Candidates for admission at the Inns of Court might come prepared to undergo an Examination in the general principles of Jurisprudence, Civil, Constitutional, or International Law, &c., upon a plan to be previously agreed upon?

26. Or is it your opinion that no acquirements beyond those which belong to a liberal education ought to be demanded for admission at an Inn of Court to study for the Bar?

Degrees.

27. Might not some such system as that adopted by our Universities in granting Degrees be advantageously adopted in calling Students to the Bar?

Queries prepared by Mr. Greenwood —*cont.*

28. Might not a distinction between ordinary Degrees and Honours be so taken, so that a moderate degree of knowledge in any one or two branches of Law might be deemed sufficient for a common Degree, while a higher proficiency might be required for Honours?

29. Would the prospect of Honours be likely to stimulate the exertions of Students of ability and ambition, while it left the road open to men of more moderate capacities?

30. Are you of opinion that the Examination requisite to obtain an ordinary Degree would have the effect of excluding men of ordinary ability, or even those who might not thereafter desire to practise at the Bar?

31. Might not the subjects and the severity of the Examination be so tempered as to render an ordinary Degree obtainable in nearly the same time, and at the same expense, as under the present System?

Time and Expense of Study.

32. Before the introduction of the present System of Legal Education, had the Student any guide as to the Course of Study to be pursued?

33. Have you been able to form any opinion whether attendance upon Lectures and Private Classes has been accompanied by a saving of time and trouble in this respect?

34. If so, must not such saving of time be attended by a saving of expense to the Student?

Rules of Court directing all Attornies to become Members of an Inn of Court or Chancery, &c. handed in by Mr. Maugham.

RULES of COURT directing all Attornies to become Members of an Inn of Court or Chancery, and Orders of the Inns of Court excluding Attornies and Articled Clerks. [Handed in by Robert Maugham, Esq., Secretary to the Incorporated Law Societies.]

As to Attornies belonging to Inns of Court or Chancery.

1632.—By a Rule of Hilary Term, 1632, the following Regulation was made by the Court of King's Bench regarding the service of a Clerkship to an Attorney, before Admission, and providing that every Attorney should become a Member of an Inn of Court or Chancery:—"None hereafter shall be admitted to be an Attorney of this Court unless he have served "a Clerk or Attorney of this Court, by the space of six years, at the least, or such as for "their education and study in the Law, shall be approved of by the Justices of this Court, "to be of good sufficiency, *and every of them admitted of one of the Inns of Court or Chancery.*"

1654.—In Michaelmas Term, 1654, a Rule of Court was made to compel Attornies to become Members of an Inn of Court or Chancery:—"That all Officers and Attornies of "the Court be admitted of some Inns of Court or Chancery by the beginning of Hilary "Term next, or in the same Term wherein they are admitted Officers or Attornies, and be "in Commons one week in every Term, and take Chambers there, or in case that cannot be "conveniently, yet to take Chambers or Dwellings in some convenient place, and leave "Notice with the Butler where their Chambers or Habitations are, under pain of being put "out of the Roll of Attornies."

1677, 1684, 1704.—In Trinity Term, 1677, and Michaelmas Term, 1684, the Court of Common Pleas Ordered the Attornies of that Court to be admitted of some Inn of Court or Chancery; and in Michaelmas Term, 1704, the following Rule on that subject was made by the Courts of King's Bench, Common Pleas, and Exchequer:—"*It is Ordered*, that all "Attornies and Clerks of the said Courts, not already admitted into one of the Inns of Court "or Chancery, shall procure themselves to be admitted into one of the said Inns of Court (if "those Honourable Societies shall please to admit them), or into one of the Inns of Chancery, "before the end of Trinity Term now next ensuing."

Notwithstanding these Rules and Orders of the Superior Courts of Common Law, the Benchers of all the Inns of Court have made regulations excluding Attornies and Articled Clerks from being admitted as Members of those Societies. At first the restriction applied only to calling Attornies to the Bar, after a limited period; but subsequently they were excluded altogether from any Membership, and consequently cannot resort to the Library or attend the Lectures.

Inner Temple.

26th June 1762.—In the *Inner Temple*, in 1762, it was Ordered, "That no Attorney or "Solicitor, or Clerk in the Chancery or Exchequer, be *called to the Bar* till they shall have "actually discontinued the practice of their former Profession two years."

16th June 1789.—And in 1789 it was further Ordered, "That from and after the end "of this present Trinity Term, 1789, no Articled Clerk, either to an Attorney or Solicitor, "or to a Clerk in the Court of Chancery or Court of Exchequer, ought to be *called to the* "*Bar* until his Articles shall either have expired or been cancelled for the space of two "whole years. It is now Ordered by the Masters of the Bench, now present, That the said "Resolutions be confirmed and adopted as the Rule of this Society in all future applications "of such Articled Clerks to be called to the Bar."

8th Feb. 1828.—Again in 1828 it was resolved "That no *Recipiatur* for entering into "*Commons* be granted to any person whose name stands on the Roll of Attornies or "Solicitors, or who is articled to any Attorney or Solicitor."

Middle Temple.

16th July 1762.—In the *Middle Temple*, in 1762, it was resolved, "That no Attorney, "Solicitor, Clerk in Chancery, or of the Exchequer, shall be *called to the Bar* until the end of "two years at least after they shall have discontinued practising as such."

5th May 1825.—And in 1825 it was further resolved "That no *Recipiatur for entering into Commons* shall hereafter be granted to any person, whether Owner of Chambers or not, whose name stands on the Roll of Attornies or Solicitors, or who shall be engaged in any Profession other than the Law, or in any Trade, Business, or Occupation." Rules of Court, &c.—*cont.*

Lincoln's Inn.

20th May 1808.—In *Lincoln's Inn*, in 1808, it was resolved "not to hear the *exercises* of any Gentleman who has been an Attorney or Solicitor until his name shall have been taken off the Roll, nor of any Gentleman who acts as Clerk to any Attorney or Solicitor; nor shall any Attorney or Solicitor be called to the Bar till his name shall have been taken off the Roll for two years; nor any Clerk to any Attornies or Solicitor, till he shall have ceased for two years to act as such Clerk."

21st Feb. 1828.—And in 1828 it was further Ordered "That no person be *admitted* to this Society whose name stands on the Roll of Attornies or Solicitors, or who is Articled to an Attorney or Solicitor."

Gray's Inn.

In *Gray's Inn*, it was resolved, "That no Person be called to the Bar in case he shall be in Deacon's Orders, or under 21 years of age; also, if he is an Attorney or Solicitor, or Clerk in the Chancery or Exchequer, he must have discontinued the practice of his Profession for two years."

(Extracted from the 6th Report of the Common Law Commissioners, March 25, 1834.)

MEMORIAL to the Judges, of the Incorporated Law Society on the Examination and Admission of Attorneys. Memorial to the Judges of the Incorporated Law Society referred to in the Evidence of Mr. Cookson, and furnished by Mr. Maugham.

[Furnished by Mr. Maugham.]

To The Right Honourable the Lord Chief Justice and the other Judges of His Majesty's Court of King's Bench,

The Right Honourable the Lord Chief Justice and the other Justices of His Majesty's Court of Common Pleas at Westminster, and

The Right Honourable the Lord Chief Baron and the other Barons of His Majesty's Court of Exchequer:

The MEMORIAL of the Society of Attorneys, Solicitors, Proctors, and others, not being Barristers, practising in the Courts of Law and Equity of the United Kingdom, incorporated by his present Majesty King William the Fourth, by Letters Patent, bearing date at Westminster the 22d December 1831.

Showeth,—

That, in consequence of the present mode of admitting and re-admitting Attorneys (the number of whom has for some years past exceeded 600 annually), many unfit persons and persons who have not duly served their Clerkships have been admitted.

That although the Rules of Court direct Notice of the intended application for admission to be entered in the Books at the Judge's Chambers, and to be affixed on the outside of the Courts at Westminster, yet no one is appointed to ascertain that such Notices have been duly given, or that the same have not been removed; nor is any inquiry made either of the Master or Clerk as to qualification or conduct, the Clerk being merely required to produce a Certificate from his Master that he has served his time, and is a fit and proper person to be admitted, and his own Affidavit that the Stamp Duty has been paid and the regular Notices given.

That even if the Notice of admission provided for in the Common Law Courts were sufficient as to time and publicity, yet there is an easy mode of evading this check by a previous admission as Solicitor in Chancery; for persons are admitted as Solicitors of that Court the day after each Term, on merely entering a Notice the day before Term of the intention to apply for Admission, in a Book kept by the Secretary of the Master of the Rolls for Town Solicitors, and by the Clerk of the Public Office in Chancery for Country Solicitors; and persons being so admitted in Chancery upon the mere production of such admissions, may obtain admission in all the other Courts of Westminster, without any of the formalities required where a person is first admitted an Attorney of the Courts of Law.

That when a party applies for re-admission after he has been struck of the Roll, or ceased to practise, although a Term's Notice of the intention to apply and an Affidavit of the grounds for the application are required, yet such Affidavit is not filed until after the Motion for re-admission has been made, and the Rule being absolute in the first instance, no opportunity is afforded previously to such admission to ascertain the truth or sufficiency of the allegations contained therein.

That in Scotland and in Ireland, Writers to the Signet and Attorneys are subject to an Examination previously to admission; and in the Professions of Divinity and Medicine and Surgery competent Bodies are appointed to examine into the fitness and respectability of the Candidates for admission.

That it is required by the Regulations of the Society of Writers to His Majesty's Signet in Scotland that, besides other qualifications, the Candidates be of good fame and reputation, and that they be examined by three private Examiners, appointed for the year by the Keeper

Memorial to the Judges, &c.—*cont.*

and Commissioners of the Signet, and after the approval of the private Examiners, that they be publicly examined in the Society's Hall by at least three Examiners.

That in Ireland, under the provisions of 13 and 14 Geo. 3. c. 23. (1773-4), the Common Law Courts appoint an Officer of the Court and four practising Attorneys to examine all persons applying to be admitted Attorneys, and the Examiners make strict inquiry of the Masters regarding the faithful service and general good conduct of the Apprentice.

That no persons are admitted to Holy Orders without a strict Examination as to their character and qualifications.

That no persons are admitted to practise as Surgeons without an Examination before the Court of Examiners of the College; and none are admitted to practise as Apothecaries without being examined by Examiners appointed by the Court of Assistants of the Apothecaries Company.

That, with a view to the consideration of your Lordship's powers and authorities for remedying the evils suggested, your Memorialists beg leave to submit the following Abstract of the Statutes and Rules of Court relating to the subject.

By the 4th Henry 4. c. 18. (1403), it was enacted that all the Attorneys should be examined by the Justices, and by their discretion put in the Roll, and they that were good and virtuous and of good fame should be received and sworn well and truly to serve in their Offices; and that the other Attorneys should be put out by the discretion of the said Justices.

By the 3d James 1. c. 7. (1606), it is enacted that none should be admitted except those brought up in the Courts or otherwise, well practised and of skilful and honest disposition.

By a Rule made in Michaelmas Term 1654, it was provided that none should be admitted an Attorney unless he had practised five years as a common Solicitor in Court, or had served five years as a Clerk to some Judge, Serjeant-at-Law, practising Counsel, Attorney, Clerk, or Officer of one of the Courts at Westminster, and should on Examination be found of good ability and honesty for such employment; and that the Court should once in every year, in Michaelmas Term, nominate twelve or more able and credible practisers to continue for the ensuing year to examine such persons as should desire to be admitted Attorneys, and appoint convenient times and places for the Examination; and the persons desiring to be admitted were first to attend with their proofs of service, then repair to the persons appointed to examine, and being approved, to be presented to the Court and sworn.

By the 2d Geo. 2. c. 23. sec. 2. (1729), it was enacted that the Judges, or any one or more of them, before they admitted any person to take the Oath required by the Act, should examine and inquire by such ways and means as they thought proper touching his fitness and capacity to act as an Attorney, and if such Judge or Judges should be satisfied that such person was duly qualified to be admitted to act as an Attorney, then, and not otherwise, the said Judge or Judges should administer the Oath.

That by virtue of the powers and authorities of this Statute the Judges, by Rule of Trinity Term 1791, directed the Notices of intention to apply for Admission to be affixed on the outside of the Courts of Law at Westminster, and in other places; and it being afterwards considered that this Notice was insufficient, the Judges, by a further Rule of Trinity Term, 1793, directed such Notices to be entered in Books to be kept for that purpose at each of the Judge's Chambers.

Your Memorialists beg leave most respectfully to submit the foregoing Statement to your Lordships' consideration, to solicit that you will be pleased to make such Order for remedy of the present inconveniences as to your Lordships shall seem meet. (L. S.)

Examined,
R. MAUGHAM,
Secretary.

28th May 1835.

Letters and Papers from Mr. Lowe.

LETTERS and PAPERS from Mr. LOWE.

Broad Oak, Accrington, December 11, 1854.

To the Royal Commissioners of the Inns of Court Inquiry.

THE great interest I take in the inquiry which now engages your attention has induced me to forward to you this letter, and the two accompanying papers; and I beg most respectfully to request the favour of your attentively perusing them, and making such use of them as you may think proper to do.

My object in forwarding the accompanying suggestions is, to render some assistance in the accomplishment of the purposes of your Commission, and I believe that my suggestions may be rendered very serviceable in that respect. I need not say that the papers have entailed great labour upon me; but will you permit me to request that you will fully consider my suggestions before you resolve to cast them aside?

It is unfortunate for myself that I am compelled to seek to prove my arguments through the intervention of strangers, to whom my object in framing each suggestion cannot be sufficiently apparent, and who will not be able to discover readily the force of the arguments I have but feebly expressed in writing. Some explanation is requisite to render clear to strangers the propositions sought to be established by my suggestions, as my views on the study of the Law are in a great measure opposed to the current theories of the day. Such

Letters and Papers from Mr. Lowe, &c.—*cont.*

explanation, however, I cannot pretend to give by letter for two reasons; the subject under consideration is too extensive for written discussion, and the toil of writing statements upon it is very great; still I feel bound to direct your attention to some of the salient points of the propositions which the suggestions can be made to prove:

1st. That Constitutional Law and Legal History cannot be successfully studied without the simultaneous study of Chronology.

2nd. That History and Chronology are not successfully taught at the educational establishments in this country.

3rd. As a consequence, persons get confused ideas of historical events, and become utterly unable to trace accurately the consecution of such events. This proves the truth of Lord Coke's trenchant remark that "Uncertainty is the mother of confusion." See further hereon, Nicolas's Chronology of History, Preface.

4th. That no practicable plan of committing "Statutory References" to memory is practised.

5th. The like as to Leading Cases.

6th. That a public Examination often becomes a fallacious test of mental acquirements.

Time does not permit me to dwell upon other topics, such as Association of Ideas, Confusion of Ideas, Cultivation of the Memory, and other Powers of the Mind, Law, Literature, Educational Agents, &c.

I beg leave to add that the questions should be put in the order indicated, otherwise some of them would become *too leading* in their character.

I should be glad to give further information if you should desire it.

I have the honour to be,
Your most obedient servant,
JOHN LOWE.

P.S.—I think it desirable to observe, in order to explain more fully my arguments relative to "Statutory References," that I contend they should form a separate branch of study by all Law Students. I think I am the first individual who has advanced that argument, and who has endeavoured to reduce "Statutory References" to a system for a Student's purpose.

J. L.

December 1854.

INNS OF COURT INQUIRY COMMISSION.

SUGGESTED RETURNS AND QUESTIONS.

Suggested Returns and Questions from ditto.

Returns.

The merit of the systems of instruction now practised at the Inns of Court might be well shown to some extent by Returns such as are suggested below.

1. Return comprising all the Questions put to the Students in the several Classes at their private and public Examinations for Honours and Certificates, distinguishing the Questions put at the private Examinations from those put at the public ones.

2. Return comprising the Rules and the Syllabuses of Lectures issued in each Term since the commencement of the Examinations.

3. Return showing the Students who have gained Scholarships and Certificates of Merit at the Examinations, distinguishing the former from the latter class; and showing also the number of Students examined and declining to be examined in each Term.

(N.B.—This Return should also show to what Class and Inn of Court each Student belonged, and in *particular*, the SUBJECTS in which each Student was examined. This would be a most valuable record.)

4. Returns showing all the Readers appointed by the Benchers of the Inns of Court, and the amount of each Reader's Income, and the sources from which it is derived.

5. Return showing the number of Students called to the Bar every Term, and yearly since (1830 ?).

6. Return showing all the Text Books used by each Reader, and the length of time each such book has been so used.

N.B.—I have skeletons of some of the Returns previously suggested, which I should have much pleasure in forwarding to Her Majesty's Commissioners.

Perhaps it would be useful to obtain also a Return showing all the Law Professorships established in the United Kingdom, the Professors appointed to them, their revenue, sources of income, &c. Such a Return as this would demonstrate whether or not Law Students were sufficiently provided with teachers, and might become very useful.

Miscellaneous Questions.

1. Does it form any part of your scheme of instruction to advise Students upon methods of study?
2. What books do you recommend them to read for advice upon pursuing their studies?
3. Has each Reader only one Class of pupils, or how many?

Suggested Returns and Questions, &c.—*cont.*

4. Are all Students belonging to the same Class treated alike in developing their mental powers, and do they pursue the same plan of studying? If not what is the difference in their treatment and plans of study, and will you state and illustrate a case in point?

5. When a Student enters your Class, what are your first inquiries of him, and your first instructions to him?

6. Do you practise the interrogative system of instruction very much?

7. Will you describe how you proceed in giving instructions to your Class?

8. Do you intend to make any alterations in your present plans of instruction?

9. Do you teach your pupils *Shorthand*, or inquire whether they practise it, and would not a practical knowledge of the art be very useful to them by enabling them to take Notes of Lectures?

10. How many Lectures in a Term and year do you deliver to your pupils?

11. Is their attendance at your Lectures compulsorily enforced?

12. Will you describe your mode of lecturing upon a subject and explaining it?

13. Do your pupils take Notes of your Lectures?

14. What are the leading rules which guide you in conducting your private and public Examinations of pupils?

15. Will you describe how each private and public Examination is conducted?

(Put Question No. 40.)

16. Is it not a well-known fact that some of our greatest Lawyers and other eminent men were easily excited, and that, through their having lost self-possession, they became unable to acquit themselves with satisfaction in an address or a discussion?

17. Do you observe whether your pupils are or are not generally liable to suffer from excitement during either your private or public Examination?

18. Is the *public* Examination of Students much approved by the Students themselves?

19. Is it not a well-known fact that at the Examination of Articled Clerks many of them have become excited during the Examination, although conducted only by written questions?

20. Has it not been stated that some Articled Clerks have been rejected because they appeared to exhibit in their answers a want of knowledge, which was caused by having lost their self-possession?

21. If the want of self-possession is felt by a Student in an Examination conducted by written questions put to him in a private room, is it not more likely that a vivâ voce Examination in public would cause him to lose his self-possession, and consequently lead to his failure in the Examination?

22. Has it happened in your Examination that a timid and excited Student has been rejected because during his Examination he did not answer to your satisfaction?

23. Do you think the same Student would have been able to pass through a similar Examination to your satisfaction if conducted in your private Class Room?

24. Is not the present system of Examination defective, inasmuch as it may allow a Student endowed with a mere memory of words to show apparently greater excellence in his Examination than a Student possessing a less retentive memory but greater reasoning powers?

25. Would not a Student of great reasoning powers, although wanting a *ready* memory, be likely to become a better Lawyer than a Student possessing opposite mental qualifications?

26. How would the Examiners judge of the relative degrees of merit of two Students such as are described in the previous question, and how would the Examiners award Certificates to them?

27. Has not Mr. Davidson expressed an opinion to the effect that a diffident man may become a good Chamber Lawyer, although he would fail as an Advocate (Martin's Conveyancing, by Davidson, Preface, v. 1), and do you consider that opinion a sound one?

28. Do you consider a private or a public Examination the better test for discovering a Student's ability?

29. In awarding Honours or Certificates, do you allow a Student any merit on account of his general ability, or is your award intended to recognize his Legal knowledge solely?

30. How many Students have gained Scholarships, and how many have gained Certificates of Merit under the new Rules?

31. Will you state the subjects in which each of those successful Students was examined, and the Readers who examined him?

32. Have not great complaints been made against the extensiveness of the subjects examined in? (Times, Sept. 1, &c.)

33. Does not the present rule of the Bar require an Attorney at Law or Solicitor in practice to be struck off the Rolls, or to discontinue his practice for a period of three years, before he can enter an Inn of Court or be called to the Bar; and will you state the rule verbatim?

34. Would the Benchers, in a case of this kind, remit any portion of the three years period if the Attorney or Solicitor passed a satisfactory public Examination, as mentioned in the 15th of the Benchers' New Rules, or could he by any other means get that period reduced?

35.*Let us consider the case of an enterprising and studious young man in the management of an Attorney's practice; would he not be compelled to serve under Articles before his admission for five years, or three years if he had graduated at a University named in the Attorneys and

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* I am very anxious to draw public attention to the subjects referred to in this and the three following questions, and the present is an excellent opportunity for my doing so.—J. L.

Solicitors Act, although he might be competent to commence practice immediately without such service under Articles?

Suggested Returns and Questions, &c.—*cont.*

36. If the same individual entered an Inn of Court, and passed a satisfactory Examination, as mentioned in the 15th of the Benchers' New Rules, would he not get a portion of his Terms remitted?

37. If the principle on which the Benchers remit a portion of the three years' Terms is a correct one, would it not be found also correct if applied to the Examination of Articled Clerks?

38. Would you not consider it a safe rule, in a case requiring five years' service, for the Examiners of Articled Clerks to remit one year in the case of an Attorney's managing Clerk of five years' experience, or to remit two years in the case of one of ten years' experience, if he should satisfactorily pass an Examination before the Examiners, in a manner similar to that required by the Benchers' New Rules?

39. Is there, in your opinion, any shadow of a cause which can with justice be alleged against the Examiners remitting a portion of the three or five years' Term of an Articled Clerk of five or ten years' experience, if he should satisfactorily pass an Examination?

40. Are the public Examinations at the Inns of Court well attended by the public?

Questions for the Reader on Constitutional Law and Legal History.

Put the preceding Questions, Nos. 1 to 40.

41. How many years have you taught Constitutional Law and Legal History?

42. How many Students attend your present Class?

43. What is the total number of Students you had in your Classes since your appointment as Reader?

44. Will you describe, with as much detail as you may choose, how you proceed to teach the specific subjects connected with your Readership, viz., Constitutional Law and Legal History?

45. What are the chief difficulties which every Student of average ability has to overcome in his study of Constitutional Law and Legal History?

46. Will you name the Text Books you use in teaching your Law pupils Constitutional Law and Legal History?

47. Do you teach Legal History synchronically, according to the order of time?

48. In teaching any subject of Constitutional Law, does the *history* of that subject form part of your pupils' study?

49. Does it not, then, consequentially follow that the *chronology* of such history becomes an important subject of study also?

50. Do you not consider that the study of history without chronology would be futile, and thus lead to no profitable result in the labours of the student?

51. Will you describe to us your plan of teaching a subject, and its history and chronology; for instance, the Chapter headed "Of the King and his Title," in Blackstone's Com., v. 2, ch. 3;* and will you be good enough to describe particularly how you would teach your pupils the Law and History of the "Devolution of the Crown," stated in the same Chapter?

52. Have any of your pupils ever made the "Regnal Table" their special study; and had you ever a pupil who had mastered it sufficiently to go through it forwards or backwards, beginning with *any* monarch's name, or any date of accession without its monarch's name?

53. The number of monarchs from Egbert to Victoria is 56. If we assume (as we may fairly do) that, on an average, ten memorable *Legal* events happened in each monarch's reign, we have a total number of 560. To this number add ten memorable events in the *general* history of each reign, and the total number of memorable events in Legal and General history is *1,120*. Now, did you ever know a Student of history who had the slightest pretension to the knowledge either of 1,120 or 560 dates?

54. Taking the learning and remembering of dates as an admitted difficulty in the study of history, how do you recommend your pupils to overcome the impediment?

55. Do you think a familiar knowledge of the "Regnal Table" would be of great importance to any Student of Constitutional Law and Legal History, and, if so, why?

56. Do you think any one of your Students could, after the lapse of six months from his Examination, accurately remember all the dates upon which he had been examined?

57. Do you found your statements in your last answer upon conjecture or fact?

58. Is not complaint made that *history*, considered, as it ought to be, inseparably from chronology, is not successfully taught at the educational establishments in this country?

59. To what causes do you ascribe the failure referred to in the previous question?

60. Will you state the number of State Trials you think it important that a Student of history should be well acquainted with?

61. What is the total number of State Trials published?

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* This part would be better as a separate question.—J. L.

Suggested Returns and Questions, &c.—*cont.*

Statutory References.

62. Is it customary at the Examination to ask Students to name important *Statutes?*

63. Is it also customary at the Examination of *Articled Clerks* to ask them to mention important Statutory References?

64. Generally speaking, do you find your pupils expert in stating Statutory References, or otherwise?

65. May the passing of every important Statute be properly considered an epoch in the Legal history of the Country?

66. Must a Student who stores his mind with many such useful Statutory References as the 3 & 4 Will. 4. c. 74., 3 & 4 Will. 4. c. 105., &c., necessarily acquire considerable information of the Statute Book, and be enabled to trace the progress of Legislative enactments, and the social improvements thereby produced?

67. Would not a knowledge of many such important Statutory References be very valuable to Counsel, and to Law Students of every Class?

68. When a Student commits Statutory References to memory, does he not consequently learn some portion of the chronology of the Statute Book?

69. Are you in the habit of teaching your pupils to remember Statutory References?

70. Will you describe how you proceed to teach your pupils a knowledge of Statutory References?

71. Will you be kind enough to look at the "List of important Statutory References" now produced, and say whether or not you ever knew a person who could commit such a quantity to memory, and permanently retain them, unless he studied them incessantly week after week?

72. Do you think that, by the ordinary means of instruction, you could succeed in imprinting all those Statutory References upon the mind of a student of *average ability*, so that he would be enabled to retain them twelve months, or even three months, without once refreshing his memory by referring to his book?

73. The Dower Act is 3 & 4 Will. 4. c. 105., and the Inheritance Act is 3 & 4 Will. 4. c. 106; would not a Student, in committing these references to memory, be liable to confound them, and supposing him to have a distinct impression to-day, will it not have probably faded at the expiration of three months?

74. Has it not ever come within your own experience that a Student failed to retain a permanent and distinct remembrance of those two references?

75. Will you explain how you would teach a pupil to remember those two references distinctly?

76. May it not be recorded as a fact that, although a knowledge of Statutory References would be highly valuable to a Law Student, no method of instruction is practised at the Inns of Court by which he is enabled to commit *many* such Statutory References to memory with facility, and also to retain them without making an extraordinary effort?

QUESTIONS for the READERS on REAL PROPERTY, LAW, and EQUITY.

Put the preceding Questions, Nos. 1 to 40.

77. Will you state the actual or probable number of Technical Terms, *obsolete and living*, which are expressly applicable to Real and Personal Property and Conveyancing, distinguishing the obsolete from the living terms?

78. Ditto as to Equity?

79. How do you teach Legal technology to your pupils?

80. Do you practise the same method of instruction when you are teaching your pupils both obsolete and living terms, &c.; if not, will you describe the different methods.

81. Is a Student more likely to forget obsolete than living terms; and, if so, why?

82. Do you find any difficulty in making your pupils retain permanently in their memory definitions of Legal terms?

83. Is not the power of describing objects with facility a rare acquisition?

84. For that reason, do you find the teaching of Legal technology difficult?

85. "Since," as Butler remarks, "a knowledge of ancient Legal learning is absolutely "necessary to a modern Lawyer," (Preface to Co. Litt. xxii.), is it not necessary that he should imprint on his mind a great number of technical Law terms which are now fallen into desuetude?

86. Is it not a fact, established by common experience, that most, if not all the technical terms applicable to the Laws of Feudalism are very soon forgotten, by even diligent Students, after they have begun the study of other subjects?

87. What means do you recommend to your pupils to impress on their memories the technology of Feudalism?

88. What is the number of technical terms belonging to our Feudal Laws?

89. Since there is some similarity in the acts described by the terms—*abatement*, *disseisin*, *intrusion*, and *deforcement*, would not a Student have some difficulty in remembering their several meanings *distinctly?*

90. What means would you recommend a Student to apply to avoid confusing them in his mind?

Put the Questions on Statutory References, Nos. *62 to 68*, inclusive.

Suggested Returns and Questions, &c.—*cont.*

91. In the Examination in Hilary Term 1853, the Students in Real Property Law were asked to state the alterations effected by the *Legislature*, in the last, preceding, and present reigns, in the practice of Conveyancing. Did not the answer require a great effort on the part of the Students to enable them to commit the *Statutory References* to memory, and to retain them without refreshing their memories by oft-repeated references to their books?

92. Do you remember how the question before referred to was answered, *i. e.*, whether the Students succeeded in remembering the regnal years and chapters of the Statutes with or without much difficulty?

93. Do you think that any one of the Students who were asked to state those Statutory References in Hilary Term 1853 is now able to do the like *instanter?*

Put the Questions on Statutory Reference, Nos. 69 to 76.

94. Has any Student in your Class gained a Studentship or a Certificate of Merit in an Examination on Constitutional Law and Legal History, or any of the other subjects examined in, except those specifically taught by yourself?

95. How would you teach a pupil, or a Class of pupils, the elementary Laws applicable to the Assurances, Bargain, and Sale, and Covenant to stand seised, and to the Creation and Destruction of Estates Tail?

96. Is it customary to examine pupils in Leading Cases in Real Property, Law, and Equity, in the Examinations for Honours?

97. Will you describe your method of teaching your pupils Leading Cases?

98. In examining your pupils, do you require them to connect the *decision* with the *name* of the case?

99. Do you find that indistinctness of ideas often arises in pupils attempting to remember *conjointly the names and decisions* of such cases as *Mackreth v.* Symmonds, Fox *v. Mackreth*, *Keech v.* Hall, *Keech v.* Sandford?

100. The number of Leading Cases separately indexed in White and Tudor's Selection of Leading Cases in Equity is 66, to which may properly be added eight or nine others, and some very important cases inserted in the editor's notes, such as Manning's Case, Lampett's Case, Cogan *v.* Stevens, &c. This reckoning gives us a total of at least 90 Leading Cases in Equity. To this number add 40 Leading Cases, which Mr. Tudor states to be the probable number to be comprised in his new work, which will contain "Leading Cases on the Law relating to Real Property, Conveyancing, and the Construction of Wills."

There are also 75 Leading Cases, separately indexed, in the two volumes published by the late Mr. Smith.

Thus, we have a total of at least 205 Leading Cases in Real Property, Law, Equity, and Common Law, which might be usefully learnt by a Student.

Do you think that the system of teaching Leading Cases practised at the Inns of Court would enable any Student of average ability to commit those 205 Leading Cases to memory, and to remember their *names and decisions conjointly* yet *distinctly*, without being compelled to have continual reference to his books, and thus, in fact, to make the learning and remembering of the cases the business of his life?

101. Were you ever acquainted with an individual who could, at a moment's notic ,state the *names* and *decisions* of 205 Leading Cases, or even 100 such cases?

List of Important Statutory References.

Statutory References.

17 John, Magna Charta.
9 Henry 3. c. 4. Charter of the Forest.
9 Henry 3. c. 6. Magna Charta.
9 Henry 3. c. 13. Charter of the Forest.
13 Edw. 1. West. 2. De Donis.
18 Edw. 1. c. 18. Quia Emptores.
34 Edw. 3. c. 16. Non-claim.
2 Henry 4. c. 15. Church.
4 Henry 7. c. 24. Fines and Proclamations.
26 Henry 8. c. 1. Head of the Church.
27 Henry 8. c. 10. Uses.
27 Henry 8. c. 16. Bargains and Sales.
32 Henry 8. c. 1. Selling of Wives' Lands.
32 Henry 8. c. 28. Leases of Wives' Lands.
32 Henry 8. c. 1. Wills.
1 Eliz. c. 1. Head of Church.
27 Eliz. c. 4. Voluntary Conveyances.
12 Charles 2. c. 24. Military Tenures.
22 & 23 Charles 2. c. 10. Distribution.
29 Charles 2. c. 7. Sunday's Observance.
30 Charles 2. c. 1. Toleration.
31 Charles 2. c. 2. Habeas Corpus.
1 James 2. c. 17. Distribution.
1 Will. & Mary, c. 2. Bill of Rights.
6 Will. & Mary, c. 2. Triennial Parliaments.

Statutory References—*cont.*

12 & 13 Will. 3. c. 2. Crown.
4 Anne, c. 16. Attornments.
5 Anne, c. 8. Union with Scotland.
6 Anne, c. 7. Crown.
1 Geo. 1. st. 2. c. 13. Crown.
1 Geo. 1. st. 2. c. 38. Septennial Parliaments.
1 Geo. 1. c. 5. Riot Act.
6 Geo. 1. c. 18. Bubble Act.
4 Geo. 2. c. 28. Rents.
9 Geo. 2. c. 36. Mortmain.
11 Geo. 2. c. 19. Rents, &c.
12 Geo. 3. c. 71. Repeal of Offence of Forestalling, &c.
39 & 40 Geo. 3. c. 98. Thellusson Act.
54 Geo. 3. c. 168. Preston's Attestations Act.
55 Geo. 3. c. 184. Stamps.
10 Geo. 4. c. 7. Catholic Emancipation.
1 Will. 4. c. 40. Undisposed of Residues.
1 Will. 4. c. 46. Illusory Appointments.
1 Will. 4. c. 47. Debts—Real Estate.
1 & 2 Will. 4. c. 37. Truck Act.
2 Will. 4. c. 39. Uniformity of Process.
2 & 3 Will. 4. c. 71. Prescription.
3 & 4 Will. 4. c. 27. Limitation of Actions—Real Property.
3 & 4 Will. 4. c. 90. Lighting and Watching.
3 & 4 Will. 4. c. 74. Fines and Recoveries.
3 & 4 Will. 4. c. 104. Debts—Real Estate.
3 & 4 Will. 4. c. 105. Dower.
3 & 4 Will. 4. c. 106. Inheritance.
3 & 4 Will. 4. c. 22. Rents Apportionment.
4 & 5 Will. 4. c. 23. Escheat.
4 & 5 Will. 4. c. 29. Irish Loans
5 & 6 Will. 4. c. 50. Highways.
5 & 6 Will. 4. c. 54. Marriages.
5 & 6 Will. 4. c. 62. Declarations.
5 & 6 Will. 4. c. 76. Municipal Corporations.
6 & 7 Will. 4. c. 32. Building Societies.
6 & 7 Will. 4. c. 114. Prisoners' Counsel.
7 Will. 4. c. 26. Wills.
1 Vict. c. 26. Wills.
1 & 2 Vict. c. 2. Civil List.
1 & 2 Vict. c. 74. Small Tenements.
1 & 2 Vict. c. 110. Insolvency.
2 & 3 Vict c. 11. Purchasers' Protection.
3 & 4 Vict. c. 82. Arrest.
4 & 5 Vict. c. 21. Conveyance by Release.
6 & 7 Vict. c. 73. Attorneys.
7 & 8 Vict. c. 76. Transfer of Property.
8 & 9 Vict. c. 15. Auction Duty.
8 & 9 Vict. c. 16. Companies Clauses.
8 & 9 Vict. c. 18. Lands Clauses.
8 & 9 Vict. c. 20. Railways Clauses.
8 & 9 Vict. c. 75. Libel.
8 & 9 Vict. c. 98. Joint Stock—Winding up.
8 & 9 Vict. c. 106. Real Property Law Amendment.
8 & 9 Vict. c. 109. Wages.
8 & 9 Vict. c. 112. Satisfied Terms.
8 & 9 Vict. c. 119. Conveyances.
8 & 9 Vict. c. 124. Leases.
9 & 10 Vict. c. 93. Accidents.
9 & 10 Vict. c. 95. County Courts.
10 & 11 Vict. c. 14. Markets Clauses.
10 & 11 Vict. c. 15. Gasworks Clauses.
10 & 11 Vict. c. 16. Commissioners Clauses.
10 & 11 Vict. c. 17. Waterworks.
10 & 11 Vict. c. 8. Aliens.
10 & 11 Vict. c. 65. Cemeteries Clauses.
10 & 11 Vict. c. 34. Towns Improvement.
10 & 11 Vict. c. 89. Towns Police.
11 & 12 Vict. c. 43. Administration of Justice.
11 & 12 Vict. c. 63. Public Health.
12 & 13 Vict. c. 20. Leases.
12 & 13 Vict. c. 26. Leases—Powers.

Statutory References—*cont.*

12 & 13 Vict. c. 92. Cruelty to Animals.
12 & 13 Vict. c. 106. Bankruptcy.
13 & 14 Vict. c. 21. Language of Statutes.
13 & 14 Vict. c. 35. Turner's Act.
13 & 14 Vict. c. 60. Trustees.
13 & 14 Vict. c. 97. Stamps.
14 & 15 Vict. c. 52. Arrest.
15 & 16 Vict. c. 24. Wills.
15 & 16 Vict. c. 76. Common Law Procedure.
15 & 16 Vict. c. 87. Suitors' Relief.
16 & 17 Vict. c. 51. Succession Duties.
16 & 17 Vict. c. 59. Stamps.
16 & 17 Vict. c. 70. Lunacy.
16 & 17 Vict. c. 95. India.
16 & 17 Vict. c. 102. Coin.
17 & 18 Vict. c. 36. Bills of Sale.
17 & 18 Vict. c. 47. Ecclesiastical Courts.
17 & 18 Vict. c. 75. Acknowledgments of Deeds.
17 & 18 Vict. c. 90. Usury.
17 & 18 Vict. c. 102. Bribery and Treating.
17 & 18 Vict. c. 104. Merchant Shipping.
17 & 18 Vict. c. 113. Administrations.

Suggestions for Incorporation of Inns of Chancery into Law College, &c., prepared and sent in by Mr. Clode.

SUGGESTIONS for the Incorporation of the Inns of Chancery into a Law College for the Education of the Students under Articles to the Attornies and Solicitors of England.

(Prepared by Mr. Clode.)

The Report of the Commissioners appointed in 1846 by the House of Commons "to "inquire into the then present state of Legal Education, and the means for its further "improvement and extension," contains the following statement (p. 53):—

"It would have been desirable that the Inns of Chancery now, as it appears from Evi- "dence, appropriated to Solicitors, and originally, at least, constituted on the same plan "and for the same purposes as the Inns of Court, should, like the latter, be aggregated "into a 'Solicitors' Law College,' under the direction of the chosen of their own Body, "and having, like the Inns of Court, the Judges as their Visitors, this (the Report continues) "would give a certain unity and harmony to the System, and place the Solicitor in a proper "position in reference to the other Branch of the Profession."

It is respectfully submitted to Her Majesty's Commissioners "for Inquiring into the "arrangements in the Inns of Chancery for promoting the study of Law, and securing a "sound Education to the Students," that this recommendation of the Committee of 1846 can and should be carried out for the reasons:—

1st, That the advantages of those Societies belong to the Attornies and Solicitors of England as a Class; and

2d, That these Societies could with facility be formed into a Law College for the Education of Students for that Branch of the Profession.

In dealing with the first subject of inquiry, it will be necessary to advert briefly to the common origin of these Societies, and to trace the period at which they became (as they are now) separated from each other, and held by distinct classes in the Profession (which at their Institution recognized but one common membership).

1st. The origin of the Inns of Court and Chancery Dugdale ascribes to the enactment contained in 9 Henry III. c. 11., whereby it was appointed that "Communia placita non "sequentia Curiam sed teneantur in aliquo certo loco," and to the Commission issued in the 20th Edward I.,* whereby the Chief Justice and the rest of the Court were directed "to "provide and ordain certain Attornies and Lawyers of the best and most apt for their "learning and skill, who might do service to his Court and people, and that those so chosen "only, and no other, should follow his Court and transact the affairs therein." (Dug. 141, and vol. 1. of Rolls of Parliament, 84 b.)

The selection of a Body of persons qualified to act *as Attornies* in the Courts, therefore, mainly contributed to the establishment of Inns of Court and Chancery, and accordingly to both class of Inns the Attornies had, for centuries, a right of membership.

The exact relationship that the Inns of Court and Chancery originally held towards each other is not very accurately defined, save that Fortescue writes, "The Inns of Chancery are "so called because the Students in them are for the most part young men learning the first "elements of the Law, and becoming good proficients therein as they grow up, are taken into "the Inns of Court," and thus (as an illustration) Sir Thomas More entered at New Inn, and then went on to Lincoln's Inn; and by 38th Elizabeth, "none were to be admitted "into the Inns of Court till he had a Chamber taken in the House, and in the meantime to "be of some Inn of Chancery."

In both Inns there were Schools fitted for persons of station. The difference that has grown up between the Inns of Court and Chancery is attributable wholly to the distinction

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* The title to this is "De Attornates and Apprenticiis."

Suggestions, &c.—*cont.*

which has been created (since the Institution of those Societies) in the Profession between the Barrister and the Attorney. When this distinction was fixed * will be seen in tracing the qualification needed for the two Branches of the Profession.

The following Statutes (prior to 2 Geo. II.) had reference to the admission, &c., of attornies.

The Statute of 20 Edward I., besides what has been stated, proposed to limit their number to 140.†

The 4th Henry IV. c. 18., is (in part) in these words, "for sundry damages and mishaps "that have ensued before this time to divers persons of the Realm by a *great number of* "*attornies ignorant and not learned* in the Law as they were wont to be before this time "(1402). It is ordained, that all Attorneys shall be examined by the justices, and, by their "discretion, their names put in the Roll, and they that be good and virtuous and of good "fame shall be received and sworn, well and truly, to serve in their Offices, and especially "that they make no suit in a Foreign Country; and if any Attorney do die, or do cease, the "Justices shall make another in his place, which is a *virtuous* man and *learned*."

In 11th Henry IV. (1410), it is directed that the Justices select Attornies, not more than twelve, and not less than six, in each County (vol. 3. p. 642.) The 33d Henry VI. c. 7. (1455), reciting the great evils resulting from the number of ignorant Attornies in the City of Norwich, and the Counties of Norfolk and Suffolk, enacts that there shall be thenceforth but six Attornies for each County and two for the City, and that all admissions by the Justices over these numbers shall be void.

The Statute of 3d James I. c. 7. (1604), is in part in these words. The second section says, "To avoid the infinite number of Attornies and Solicitors, be it enacted, That none "shall henceforth be admitted Attornies in any of the King's Courts of Record but such "as have been brought up in the same Courts, or otherwise well practised in soliciting of "Causes, and have been found by their dealings to be skilful and of honest disposition, and "that none be suffered to solicit any Cause in any of the Courts aforesaid but only such as "are known to be men of sufficient and honest disposition."

The Rules (made by the Justices) relating to the admission of Attornies were these:—

The Rules of 1654 direct "That no Attorney shall be admitted or allowed to practise as "an Attorney unless a common Solicitor of five years' standing, or he has served five years "as a Clerk to some Judge, Serjeant, &c., &c., Attorney, Clerk, or Officer of the Court;" and further expressly orders that "All Officers and Attornies of this Court be admitted to some "Inn of Court or Chancery, and be in Commons *one* week in every term, and take Chambers "there, (or near, if Chambers cannot be had within the Inn,) under pain of being put out of "the Roll of Attornies."

The Rules of 1704 recite that divers complaints have been made that *many* Attornies and Clerks are not admitted in any of the Inns of Court or Chancery, according to ancient custom or usage, by which they might be resorted to and business of Law better managed, to the greater ease of the Queen's Subjects, the neglect whereof is to the *great detriment* and *decay* of the Societies of the Law, and divers inconveniences do thereupon daily happen, for prevention whereof, and to establish a remedy, the Rules then direct that all Attornies and Clerks of the said Court, not already admitted, &c. shall procure themselves to be admitted into one of the said Inns of Court (if those Honourable Societies will admit them), or into one of the Inns of Chancery.

And again, "No person should thereafter be sworn an Attorney of any of the Courts "unless he had been first admitted a Member of one of the said Inns, and brought with "him the Certificate of Admission signed by the Treasurer or Principal."

When an Attorney ceased to be a Member of an Inn of Court or Chancery, he ceased to be qualified to act as an Attorney, and, therefore, he could not leave one Society until he had gained and produced a Certificate of his Admission into some other Inn. The Attornies were also, by the same authority, enjoined to come into Commons of their respective Inns, "to "their great ease in transacting their Causes one with another, and with much benefit to "their Clients," and that their neglect might not tend to the great decay and detriment of the said Societies.

As to the Qualification for the Bar.

The qualifications and privileges of the Barrister do not stand on the same grounds as those by which the rights and privileges of the Attorney are secured, viz., A series of Statutes of the Realm; but the difference between the two Classes of the Profession exists only by the authority of Rules made by the Judges, as Visitors of the Inns of Court, which Rules the Judges, in their several Courts, see fit to enforce in favour of the Bar.

The Rules, therefore, that relate to the qualification formerly required for the Bar are principally these:—The Rule of the 13th Elizabeth declares that the Candidate is to be no utter Barrister till he has twice mooted in the Hall, or as often in some Inn of Chancery; and by the 14th Elizabeth, that he shall keep three learned Vacations after their Callings, or otherwise serve the Houses of Chancery during their Readings.

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* When the distinction first arose may not be easy to determine. In 16 Ric. 2. (Vol. 3 Rolls of P., p. 306), the attorney and counsel are spoken of as distinct agents.

† By way of contrast, it may be remarked that the number of attornies is now nearly 7,000 in the country, and upwards of 3,000 in London.

Suggestions for Incorporation of Inns, &c.—*cont.*

By the Rule of 22 Elizabeth none could be allowed to plead at any Bar at Westminster unless a Barrister of five years, and he had continued that time in exercise of learning, or read in an Inn of Chancery, by the space of two years before.

The Inns of Chancery offered, therefore, a partial qualification for the Bar. So again, by Rule of 5 Car. I. (relating to Gray's Inn): The Candidate must have been seven years in Commons in Gray's Inn, or two years' continuance in an Inn of Chancery, and five years' Commons in this House; and by the same Rule the Butler is to keep an account of the exercises of Gentlemen under the Bar abroad at the Inns of Chancery.

The exclusive Audience of the Barrister is secured by the Rules of 16 and 22 Elizabeth.

The first of these Rules is, "None to plead in any Court at Westminster unless he be a "Reader, Bencher, or utter Barrister;" and the Rule of 22nd Elizabeth has already been given.

It is not necessary to trace the qualification for either branch of the Profession beyond the period at which the two Branches become completely distinct in their functions, and severed in association from each other. Thus, the Attorney was excluded from Audience in open Court in the years 1574 and 1580, and he was excluded from the Inns of Court in 1556, 1574, and 1614.

As to exclusion from the Inns of Court, the Rule of 3 & 4 Philip and Mary declared, "That no Attorney shall be admitted into any of the Houses of Court, and that in all ad-"missions from henceforth this condition shall be implied,—that if the Member practise any "Attorneyship, then, ipso facto, he shall be dismissed, but with liberty to return to the Inn of "Chancery from whence he came."

And the 16th Elizabeth (1754), "If any Member practise as Attorney and Solicitor, he "shall be put out of the Society, except those that moot," &c. Again, the 12th James I. (1614), "No Attorney or Solicitor shall be admitted to any of the Inns of Court."

It is submitted, that from these Rules the entire separation between the Inns of Court and the Inns of Chancery resulted, and ever after the former have been held by the Bar, and the latter by the Attornies.

It is quite true that the Judges, by other and later Rules, sought to make the Government of the Inns of Chancery subordinate to the Benchers of the Inns of Court; but there is no evidence whatever that this power was ever recognized by the authorities of either of such Inns, but on the contrary, in the Cases of Rex v. Allen and Rex v. Barnard's Inn, search was made in vain among the Records of the Temple and Gray's Inn to show that either of the latter Inns had ever exercised any such control (over Clifford's Inn and Barnard's Inn), and the King's Bench, in those Cases, refused to enforce obedience.

And again, it is submitted whether the very language of those Rules does not prove the Members of the Inns of Chancery to have been then only Attornies, Clerks, and Officers of the Courts, as it is against such only that the penalty of disobedience is imposed. (See Rule of 6 Car. I. (1638), and subsequent Rules in Dugdale).

However, Lord Campbell puts the title of the Attornies beyond doubt; for, in speaking of Chief Justice Hale's entrance into the Profession, he remarks, in a note, "The custom of "Law Students to be first entered in an Inn of Chancery, before being admitted to an Inn "of Court (which had prevailed in Lord Coke's time), seems now (1629) to have become "obsolete, and the Inns of Chancery were entirely abandoned to the Attornies."

It ought not, therefore, to be denied that the Attornies (as a Class) are entitled to enjoy exclusively the advantages and emoluments of the Inns of Chancery till they are restored to Membership in the Inns of Court.

With respect to the second division of the subject, few persons will be found to justify the present use of the funds and advantages arising from the Inns of Chancery.

In their original foundation they were Educational Establishments for Law Students, and they are still capable of being restored to these purposes.

Even to preserve them as public property it is essential that they should be secured by Act of Parliament; for as, A.D. 1460, there were ten Inns of Chancery, and there are now but five of them remaining, surely there is reason to fear, judging from experience, that the remaining five will, in course of years, be lost to the Profession.*

The Committee of 1846 pointed out the object for which these Societies should be preserved. And the question then comes—in what way can the five remaining Inns of Chancery be secured as public seminaries to supply the acknowledged want of Legal Education to the Attornies and Solicitors of England.

The property of each Inn consists of (say) a noble Hall, and an Income of (say) 260*l.* to 1,500*l.* per Annum. Still there is no reason why Students at Law, any more than Students in Divinity or Physic, should learn their Profession other than at their own expense; but it is needed that the Law Students should (as other Students) have places of study found for them. Now places of study were one of the first requisites, the want of which was pointed out and referred to in the Committee of 1846. The Halls are in fine condition, and as well able now, as in Fortescue's time, to hold 100 Students each.

The use of these, and future good government in those Inns, are what the Students require.

It is proposed, therefore, to incorporate the Inns of Chancery into one Legal University for Solicitors, each Inn preserving its own Government, so far as is compatible with the welfare of the whole.

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* When Thynne and Whitelock wrote in 1580, they mention that the Inns of Chancery were then only eight in number.—J. Hearne's Curious Discourses, p. 69.

Suggestions for Incorporation of Inns, &c.—*cont.*

Upon the Books of one of those Inns* the Student should be entered at the time that he is articled; and before he is accepted by the Inn as a Student he should undergo a preliminary Examination in Classics and General Knowledge by the Benchers (aided by their Readers) as to his then Educational attainments.†

Every University has the power of rejecting or postponing the admission of illiterate Candidates, and these Inns (acting under general Rules framed by the Judges) should have the same power. Upon this matriculation the Candidate, and the Attorney taking him under Articles, should enter into Bonds, the Student to observe the Rules of the Society, and the Master to pay the fees required for education.

As the Attorney undertakes the instruction of his Clerk, he should be the party responsible to the Society for all payments required for education.

The Student should have two Courses of study open to him:—1st, two years' (first and fifth years) Reading and three years' Service; or, 2ndly, four years' Service and one year's Reading (fifth year); and an Attorney, becoming such under the 1st Course of study, should be entitled to go to the Bar on one other year's Reading at any Inn of Court.‡

Each Inn should have its number of Students limited; but the choice of Inn (subject to the chance of Admission) should be left to the Student.

Each Inn should be compelled to appoint two or more Readers, being Barristers, Members of the Universities of Oxford or Cambridge, and of one of the Inns of Court.

These should hold Classes daily during each Term, in Hall, and the Students should take up such Books, and pursue such a Course of study as the Readers should (with the approval of the Benchers) from time to time direct.

The Students, at the end of each Term of Attendance, should be examined by the Readers of the Inn, in the presence of the Benchers, and Certificates of Merit or competency issued to them. The Benchers, acting on the Report of the Readers, should have the power of refusing Certificates. No Candidate should be permitted to enter for his final Examination at the Law Institution until he had lodged Certificates of four Term Examinations at his Inn.

Now under such a system it would be impossible that any number of ignorant Attornies could get admission. A systematic course of study would have been pursued, and the Examination in each Term would be a protection that it was effectual, and the Students were really gaining knowledge. The method suggested would protect the public from ignorance, and afford some guarantee for character; for, if the Students were suffered to associate from time to time in Commons, there, in social intercourse, the virtue of individual character would be appreciated, and the whole line of character, in the aggregate, would be raised. As each Inn would vie with the others to attain pre-eminence in reputation, so would the Students be stimulated to preserve, by their conduct, the honour of their Society.

If such a system were pursued, the Public would have gained one of the ends for which these Societies were founded, viz., learned men.

The cost of the education should be borne mainly by the recipients of its advantages.

The ordinary cost of entering the Profession may be estimated at 300*l.* or 315*l.* premium, and 80*l.* for Stamp on Articles.

A tenth of the Articled Clerks are said to enter a Barrister's Chambers for the last year of Articles, and, if so, the annual cost (at 100*l.* per Annum each pupil) would be for 38 pupils, say, 3,800*l.* per annum.

The Stamp on Articles, the Commissioners are aware, has recently been reduced from 120*l.*, so that to impose upon the Attorney taking a Clerk (who will charge the fee to the Clerk in his premium) a payment of 10*l.* to 20*l.* for his education, could not be held to be a grievance by either of them.

The number of Attornies admitted in the ten years ending Easter Term, 1846, was 3,994, nearly equal to 400 per annum. In the year 1854, 391 were examined, and 347 were admitted; and taking 380 as the average number of Clerks in the fifth year of their Articles, and 10*l.* per annum for each Student, the sum of 3,800*l.* would be the annual Income from Students for education.

If four Inns of Chancery were incorporated as "the University," and the Students entered equally, 950*l.* would fall to the share of each Inn.

Now what should be added to these funds out of the annual Income of the Societies must be left for the Commissioners in the first instance, and the Judges, as Visitors, hereafter, to decide; but, assuming 1,200*l.* per Annum to be the Income of each Inn, derived from Students' Fees and its own contribution, it would furnish a fair income of 400*l.* per Annum to three Readers in the three branches of Legal Science.

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* It may be thought objectionable to compel every Student to come to this one College. There is no reason why Law Colleges should not (as the Crown sees fit) be established at Manchester and other places having formed Law Schools. Students for Divinity, &c. may graduate at Durham, St. Bee's, and other places, besides Oxford or Cambridge, and Students at Law should have the same privilege. Besides, London and Country practice vary so considerably, that an Examination for London practice fails of its usefulness when applied to Country Attornies, never having occasion personally to practise in the Courts at Westminster.

† The Incorporated Law Society, in their Report for 1854, proposes (p. 18) a Classical and General Examination before admission to practice; it is submitted that the Candidate should have acquired this knowledge before he enters upon his new study of the Law.

‡ It will be remembered that, formerly, reading in an Inn of Chancery gave a partial qualification to the Bar, which should be restored.

Suggestions for Incorporation of Inns, &c.—*cont.*

The expenses of management should be thrown upon the Income of the Societies, so that the Student should receive the full benefit of his Educational subscription without the slightest deduction.

Let the residue of the annual Income of each Society be used in a becoming hospitality on Examination and other Public Days, and let the privileges of freedom from expense be enjoyed, as it now is, by the Ancients alone, and let the ordinary Member or Student still continue to bear his own expense of Commons.

This plan, applying only to Students hereafter entering the Profession, could not come into full operation till four years. Till this period arrives let the resources of the Societies be husbanded, so as to enable them in the fourth year to purchase and establish a Library within the Inn for the Students thereof.

The remaining question is, are the present Governing bodies of these Societies so obsolete and decayed as not fit to be intrusted with such responsibilities? If so, this can easily be remedied for the present, and the future Members of the Bench should be selected for intellectual attainment, and the position they may have respectively held in their Class, and final Examination for Admission. If these Societies are decayed, it can be so in no other sense than in their Government and the present expenditure of their Incomes. Any such abuses could be easily remedied, and the Institutions restored to the uses of Education, with vast benefit to the whole community.

In the plan that has been suggested, the endeavour has been to secure what the framers of the early Statutes felt to be so essential for the happiness of Society, viz., firstly, virtuous men; secondly, learned men; and thirdly, to limit the number of Attornies.

The Class of Attornies will be degenerated rather than diminished by the measures the public are now taking to discourage the Profession. A lower grade in society quite as numerous as that from which Attornies have hitherto been taken will crowd into the ranks, and the evils of Litigation will be frightfully aggravated by the Litigants being served, and not restrained, by Professional Agents in a low social station.

Far better, it is submitted, will it be to limit the number by increasing the qualifications needed from Candidates, as in this *one* measure you raise the Status as well as diminish the number of Candidates.

Something must be done. Lord Brougham, speaking in 1846 of the Education of the Bar, says, "I am sorry to say that it is at as low an ebb as it is possible for Education to be "in any Country." There are no means taken to instruct the Pupils in Law. The Committee add, "the Education of the second Branch of the Profession, that of the Solicitor, is "not less neglected."

Since 1846 no additional measures have been taken, except by the Benchers of the Inns of Court, to wipe off the stigma of ignorance thus placed on the Profession, and, as far as the Attornies are concerned, it still remains before the Country on the Records of Parliament.

CHA. M. CLODE,
2, Gray's Inn Square.

12*th December* 1854.

Letter received from Mr. Clode.

LETTER received by the Secretary from Mr. CLODE.

SIR,

IN a paper which I had the pleasure of submitting to the consideration of the Commissioners (which was acknowledged in terms of undeserved consideration towards me), I remarked it was necessary that Parliament should interfere to preserve the Inns of Chancery as Public property.

Would you do me the favour to put as a note, "When Thynne and Whitlock wrote in "1580, they mention that the Inns of Chancery were then only *eight* in number."—J. Hearne's Curious Discourses, p. 9.

I am not sure that 1580 is the exact date; the papers were contributed between the 14th Elizabeth and 1604, when the society was dissolved.

I have the honour to be,
Sir,
Yours most faithfully,
CHA. M. CLODE,
2, Gray's Inn Square.

26*th May* 1855.

To J. T. Airey, Esq.
&c. &c. &c.

INDEX.

Allen, William Henry, Esq., Principal of Clifford's Inn.—*App.* p. 259.

America.—As to Bar of Philadelphia and Pennsylvania; No distinction between Barristers and Attornies; Admissions, Examinations, Cost, Law Association, Distinction between Law and Equity, Lectures, Election of Judges, Legal Education, Binney, 359–452. — As to New York; original and present system of Education, Examination, Admission; the Law open to all, the Law Association, Selection and Election of Judges, Law Schools, Counsels' Fees, Thomas, 995–1077.

Attornies, Education of—Barnes and Cookson, 1528–1579.—*See* Tyrrell, 710–717.—*See* Maugham, 1459–1463.—Letter from Principal of Clifford's Inn, *App.* p. 259.

Bach, Adolphus, Esq., Analysis of his Evidence.—Is a Member of Legal Profession in Germany.—Was a Law Student of the University of Leipsic, 1234.—Acquainted with course of study in Saxony, 1235.—Legal Education only obtained in a University. Student brings Certificate from a College of Classical Education, and is then admitted as Law Student at a University; and there are Professors in Law; and Student studies first half year Encyclopædia of Law, 1236; second half year the Institutes and Roman Law, 1238; third half year Pandects and German Law; fourth half year Saxon Law, &c., and fifth the Practicum, 1239.—Student takes his Degree of Doctor of Laws on leaving the University after Examination, 1246–1247.—Degree does not entitle to practise, another Examination is required previously, 1248.—Profession not divided into Advocates and Solicitors, 1261.—The Law Faculties in the Universities act as Courts of Appeal, 1267–1269.—The control over the Members of the Profession lies with the Courts. Judges rarely taken from the body of Advocates, 1274. —Permission got from Government to be Candidates for Judicial Office. Begin as Clerks; then raised to be Referendaries, and make Reports, and become Assessors, and hear Pleadings, but have no votes, 1275.—No distinction in Germany between Common Law and Equity, 1277.— Students obliged to study Medical Jurisprudence, 1281–1284.—Prefers the whole Law System in this Country to that of Germany, 1286.

Barnard's Inn.—Reply to Circular from Treasurer of, *App.* p. 260.—Constitution of, Property, &c., Hunt, 960–993.—Debt, *App.* p. 261.

Barnes, Keith, Esq., and Cookson, William Strickland, Esq., Analysis of their Evidence—Think great advantage has resulted from Examination of Attornies, 1528.—The Examinations are in Common Law, Equity, Conveyancing, Bankruptcy, and Criminal Law, 1529.—There is an appeal to the Judges upon rejection of Candidates, 1531.—The Examination has diminished the number of applicants for Admission, 1532.—There are Lectures; the attendance voluntary, 1533–1535.—The Examination is compulsory, 1536.—System has been beneficial, 1538.—Desirable that Barristers should pass Examination, 1539.—No system of Private Classes in conjunction with Lectures, and the Lectures have no Private Classes, 1540–1546.—Candidates must pass an Examination in Equity, Common Law, and Conveyancing, 1547.—Certificates of character are required, 1551. —The power of removing an Attorney from the Roll ought to be vested in the highest authorities, 1557.—The Law Society are incorporated by Charter, and are the Registrars of Attornies, and their Annual Certificates are issued on our Certificates. Society has power to remove Members for misconduct, 1558–1560.—Great advantages result from there being compulsory Examinations for Members of the Bar, 1561.—The Society has a large Library and pays Lectures out of its own funds, and receives a small sum from Students attending; the Society is voluntary, 1563, 1564.—Lectures began several years before those of Inns of Court, they are

Barnes, K. Esq., *and* Cookson, W. S. Esq.—*cont.*
well adapted for this branch of the Profession, 1565.—Fees payable by Clerks and expenses of education, 1566–1569.—There is a preliminary Examination before Admission as Attorney, 1570.—Attornies are much better educated than they were two hundred years ago, 1572–1574.—Many young men come up from the country merely to be examined and admitted, 1575.—The average number admitted between 1833 and 1854 is 205 a year, 1576.—System of compulsory Examination of Students before Admission as Attornies has been beneficial to the Legal character of the Attornies, and does not believe there has been any serious diminution in the numbers in consequence, 1577–1578.—Those who take the Degree of Bachelor of Arts at one of the Universities can be admitted after a three years' Clerkship. Recommends that Students should graduate at a University before being articled; some of best Examinations have been of men who have taken this Degree and applied to be examined at the end of three years, 1578.—In favour of a preliminary Examination before admitting Students to be articled, 1579.—The course of Legal Education now adopted for the Bar has been beneficial, 1580.—The attendance at Lectures should be voluntary, and the Examinations compulsory, 1581.—Would make the education of an Attorney as good as that of a Barrister; the two branches of the Profession ought to remain distinct, 1582–1592.

Binney, Horace, Junr., Esq., Analysis of his Evidence.—Is a citizen of United States, and a Member of the Bar of Philadelphia, practising in Pennsylvania, and has been so twenty-three years, 359–362.—Speaks, as a Pennsylvanian Lawyer, partiallly as to New York, and also as to practice in the Courts of the United States, 363.—No distinction of grades in Profession in Pennsylvania. The term "Barrister" not used; the term "Counsellor" used. All are Attornies. As to Admissions to Bar of Philadelphia; the Judges select from the Members of the Bar a Board of Examiners. A Student must read Law in an Attorney's Office for two or three years. He is registered on Dockets of Court as candidate for Admission; and three months before Examination, gives notice of application for Admission. This is registered and filed in Court, published a month before Admission four times in Weekly Official Paper. Presents himself before examiners, brings Certificate of moral character from his instructor, and submits to Examination. That Examination favourable, and Certificate satisfactory, he is reported as having passed. Presents this Certificate, and a Member of the Bar moves his Admission in open Court; he takes the Oaths, and is admitted, 364–365.—The Examination exclusively Professional, 366.—The cost of instruction is three hundred dollars, 367.—No fees on Admission, 368.—Has been examiner frequently, 369.—Examination is vivâ voce, and Student is pretty well tested, 370.—Examination not rigid, 371.—It is private, 372.—Examinations take place every two or three weeks in nine months of year, 374.—Members of County Bar may practise in the Courts of the city of Philadelphia, and after two years can be admitted on motion in Supreme Court of State, then with Certificate of that, gain admission to the Federal Courts, 380–387.—There is at Philadelphia a Law Association, which takes cognizance of malpractices of its Members, 389–395.—We do all the duties of an Attorney, 401.—There is a distinction between Law and Equity in Philadelphia, 404.—No tendency in Pennsylvania to their fusion. Till within eighteen years, there was no separate system of Equity in state of Pennsylvania. Now Chancery powers are vested in Court of Common Pleas of Philadelphia, 407.— The President Judge of District Court for Philadelphia, and two Members of the Bar, constitute a Legal Faculty in the University of Pennsylvania, at Philadelphia, deliver Lectures, and receiving a fee. Lectures are public to all paying fees for them, 410–412.—There are Examinations and a

Binney, Horace, Junr., Esq.—*continued.*
Moot Court; and a Law Academy, which is an entirely voluntary Association, 413–416.—At New York, Boston, and Philadelphia, gentlemen associate together; one devoting himself to Advocacy, and the other to business of an Attorney, 417–420.—At New York, Attornies pass a further Examination before becoming Counsellors, 421–430.—Judges in Philadelphia are elected by universal suffrage. Judges of the Supreme Court for fifteen years. Judges of District Court and Court of Common Pleas, ten years, and are re-eligible, 431–439.—Thinks system of Legal Education in the States could not be improved, 440–452.

Birkbeck, William Lloyd, Esq., Analysis of his Evidence.—Is Reader on Equity, 1301.—Seventy or eighty Students attend, 1303.—Attendance compulsory, 1304.—Only five or six attend Private Classes, 1305.—This attributable to Students reading in Chambers of Pleaders, &c., 1306–1308.—Thinks compulsory Examination would be desirable, 1309.—Thinks no useful result from compulsory attendance at Lectures without Examination, 1311.—Approves of annual Examinations, 1312.—Thinks two years attendance at Lectures and Classes, with one year of practice in Chambers, would be better than the old system, 1315.—The Examinations have much improved, 1316.—Thinks further rewards would increase the number of Candidates for Examination, 1319.—Would have one Examination for Honours and one for Call, 1320–1322.—Thinks it would be advisable to have a system in the Universities in combination with that at Inns of Court, 1323.—Those who have chosen the Bar as their Profession, might devote half their University career to Legal studies, 1324.—Would have an Examination for Degrees in Law at the University, 1325.—Thinks Examination as to general information before Admission as Student desirable, 1329.—That increased Examinations would not deter many from coming to the Bar, 1331.—Students find the Lectures to interfere with attendance at Chambers, 1332–1333.—Thinks period of attendance at Lectures should be increased, and that Students should have access to Libraries in the evening; that there should be dinners in Hall during whole of Educational Term, and that the third Educational Term is too long, 1335–1343.—That it would be difficult to enforce a year of Silence, 1344.—That Lectureships on Medical Jurisprudence and Modern Civil Law would be advantageous, 1346.—That new system has been beneficial, 1348.—That Faculty of Law for conferring Degrees in London would be desirable, 1351.—A Chartered body for such purpose might be formed out of the four Inns of Court, 1352.—Degree might be passport to the Bar, and qualification for offices given only to Barristers; it should be conferred upon Examination after attendance at Lectures, but such attendance might be shortened for Graduates in Law of the Universities, 1353.—Students should live six months in the Legal atmosphere, 1354.

Boswood, Mr. Daniel., Analysis of his Evidence.—Is Under Steward of Gray's Inn, 658.—Prepared the Tables as to Income and Expenditure, and delivered in same, 659. *See* same *App.* p. 253.

Broom, Herbert, Esq., Analysis of his Evidence.—Is Reader of Common Law since 1852, 1167–1169.—Attendance at Public Lectures is compulsory on all who do not submit to Examination, 1170.—Two Courses of Lectures, one each year, must be attended, 1171.—Private Classes are voluntary, 1174.—The numbers attending Private Classes are few, owing to there being no compulsory Examination, 1175–1176.—Thinks, besides the Lectures and Private Classes, attendance at Pleaders necessary, preliminary to practice, 1177.—But that ought not to prevent attendance at Private Classes, though Students attending Pleaders might not attend Private Classes, having arranged to attend at Pleaders, 1178.—Thinks compulsory Examination would be advantageous, 1179.—Thinks course of Legal Education should extend over three years; third year in the Chambers of a Conveyancer or Pleader, &c.; at end of third year there should be a compulsory Examination for Degree of Barrister; there should also be a voluntary Examination for Honors, 1180.—That it should be compulsory to attend three years, unless Student chose to devote last of three years to attendance at Chambers, 1181–1184.—There should be an Examination in Classics as test of liberal education before admission as Student, 1185.—Thinks Law cannot be successfully taught at Universities, 1186–1187.—Some of the principles of Law might there be acquired, 1188–1189.—Student should be obliged to attend the Civil or Constitutional Law Lectures during first year, and in second, any one of the other three Courses, 1194.—The Candidates for Honours have progressively much improved, 1199–1200.—Thinks additional stimulus, as some kind of Degree, would increase the number of Candidates for Honours, 1205.—Sees no difficulty in having a Faculty of Law in London as in Edinburgh, 1206.—The four Inns ought to be Colleges, the whole an University; the Inns represented by the Council elected by the Inns, 1207–1209.—Thinks discipline of the Bar might be left to the Inns of Court. The Student before Call should require a Certificate from his own Inn as to his conduct, and one from the Council as to his attainments, 1210.—Each Inn should call its own Members, 1211.—Would dispense, in cases of those who had obtained Degrees at Universities, with the Examination previous to Admission, 1213.—Thinks there ought to be Examinations of the Private Classes by Reader, by Printed Papers of Questions, 1215.—Non-Professional persons ought to be admitted to Public Lectures, and a Library should be formed exclusively for Students, 1218–1222.—A Professorship of Medical Jurisprudence is wanted, 1224.—Examinations ought not to be severe, 1229.

Broom, Herbert, Esq.—*continued.*

Bryant, Mr. George, Analysis of his Evidence. (*See* Forms and Returns sent in by, *App.* p. 218.)—Is and has been Under Treasurer of the Inner Temple two years and a half, 261–262.—Prepared the statements made by Mr. Whateley, 263.—Gives a detailed Account of the items of Expenditure, Payments, Salaries, and Receipts by Students of Commons in and Servants employed by the Inner Temple, 264–322.—In 1833 Mr. Strong was appointed to give Lectures in the Inner Temple, 1671–1673.—And continued till 1835, when they were discontinued owing to the smallness of Attendance, 1674.—Mr. Hall was appointed in 1847, 1676–1677.—He received 300*l.* a-year, 1681.—There were annual Examinations, 1683.—Mr. Hall continued Lecturer till 1851, when the Council of Legal Education was appointed, 1684–1685.—The Expenditure of the Inn has seriously engaged the attention of the Bench, 1686–1690.—Considerable reductions might be made, 1691, 1692–1694.—The expense of Repairs is very great, 1696, 1697.—Society were out of Debt in Christmas 1853, 1698.

Cairns, Hugh M'Calmont, Esq., M.P., Analysis of his Evidence.—Has been receiving pupils as Students for the Chancery Bar for ten or twelve years, 1636.—Thinks it necessary that any who wish to practise effectually should spend two years before call in Chambers. Doubts whether it be wise to take away pupils from such Course, 1638, 1641.—The system of Legal Education might be effective in connexion with the Universities. Persons successful at Examination there, to be exempted from Examination in London, to which all others should be subjected, 1642–1644.—The attendance at Lectures withdrawing them from Chambers is inconvenient to pupils, 1645.—If plan suggested were adopted, it still would be desirable to have Lectures in London with attendance optional, 1646.—Pupils ought not to have their attention distracted during attendance at Chambers, 1648.—Two years at least should be spent in Chambers, 1649.—In favour of a compulsory Examination for Admission to the Bar, 1654.—But a Legal Degree at the University might stand instead of such Examination, 1655.—The Examination for such Degree should not include technical knowledge, 1656.—All not Members of the University and those who had not obtained a Legal Degree at the University, should be subjected to the compulsory Examination, including both technical and theoretical knowledge, 1657–1660.—Does not suggest an Examination previous to admission as Student, 1661–1662.

Cambridge.—*See* Letter from Dr. Geldart of, *App.* p. 264.

Classics.—*See* Broom; that there should be an Examination in, before Admission as Students, 1185.—*See* Phillimore; would not require Latin and Greek, 1512–1521.—*See* Thomas; no Latin required in America, 1015–1021.—*See* Whateley; would include Latin and Greek, 344.—*See* Whitehurst; Latin and Greek not necessary, 535.

Clement's Inn.—Constitution and Rules of, Income, Property, Commons, Gregory, 789–863. Table of Receipts and Expenditure in, *App.* p. 259.

Clifford's Inn.—Reply to Circular from Principal of, *App.* p. 259. No Lectures delivered, nor Examinations, nor Library, *App.* p. 259.

Clode, Mr. Chas. M.—Suggestions as to Inns of Chancery from, *App.* p. 295.

Doyle, Mr. Michael, Analysis of his Evidence. (*See* Forms and Returns sent in by, *App.* p. 243.)—Is Steward of Lincoln's Inn, and has been so thirteen years, 42–43.—Gives a general outline of the property of the Inn, the Receipts, Rents, &c., the Regulations as to Chambers and as to Income, Expenses, and Liabilities of the Society, 44–183.

Education, Legal Council of.—Report of, *App.* p.149.—Abstract Accounts of, *App.* p.157.—Rules for guidance of Readers by, *App.* p. 156.—Rules for guidance of Students by, *App.* p.171.—Notice to Students by, *App.* p. 157.—Rules for Examination of Students by, *App.* pp. 154, 166, 179, 186, 196.—Public Examinations by, *App.* pp. 171, 180, 191, 201.—Students gaining Honours on Examination by, *App.* pp. 176, 185, 196, 205.—Prospectus of Lectures by, *App.* pp. 151, 163, 168, 176, 188, 198.—Time for delivery of Public Lectures by, *App.* p. 159.—Number of Students attending Public Lectures and Private Classes (between 1852–1853) of, *App.* pp. 148, 160.

Eldred, Mr. Edward, Analysis of his Evidence. (*See* Forms and Returns sent in by, *App.* p. 236.)—Is Sub-Treasurer of Middle Temple, 560.—Attends by direction of the Treasurer, 561.—Will put in a Tabular Form of the Income and Expenditure of the Middle Temple, number of Students dining in Hall, and Copy of the Covenant of New Inn, 563–565.

France, System of Legal Education in, *See* M. Algernon Jones's Letter to Mr. Keating, and "Programme des Cours de la Faculté de Droit," annexed thereto, *App.* p. 270. At the end of first year, Examination on Elements of French and Roman Law; end of second, on French Law; in third, on Roman Law and on French Law; and Theses on Civil Law, Roman Law, French Criminal, or Commercial Law. Then Student obtains Diploma of "Licenciate of Laws," and may be called to the Bar. After Examinations of first and second year, he obtains Diploma of Bachelor of Laws, which confers no right; in fourth year Examinations on Roman Law, French Constitutional Law, History of French and Roman Law, and International Law; Degree of Doctor of Laws necessary for Professorship; Degree of Bachelor of Arts required for admittance to Faculty of Law. Each year Student takes 4 Inscriptions at Faculty of Law which costs 120 francs; first Examination costs 100 francs, second 200, the 2 of third year 100 each, the Theses and Diploma 240, the Cost of fourth year same as third. List of Lectures to be delivered in the Educational year 1854–55, with Rules and Regulations, &c., *App.* p. 271.

Fraser, Patrick, Esq.—Of the Faculty of Advocates in Scotland. Letter to Mr. Napier, *Minutes* p. 24. Extract from Report of Faculty of Advocates sent in by, *App.* p. 266.

Furnival's Inn.—Reply to Circular from Mr. Woodward of, *App.* p. 260. Not an Inn of Court, *App.* p. 260.

Geldart, T. C.—Vice Chancellor of Cambridge. Report of Syndicate from, *App.* p. 264.

Germany.—Mode of Admission to Bar of Saxony and other parts of Germany, Bach, *Evidence*, 1236–1238, and 1260.—Education commences at Gymnasium or State School, and Certificates of having passed Examination in classical and general Literature are required from these previous to Admission to University, and is then matriculated; there enters for any of the Lectures, and attends the Lectures of any of the Professors both upon theoretical and practical Branches of Legal Professions, Mr. Greenwood's Report, *App.* p. 272.—State Education is indispensable for Public Service, Mr. Greenwood's Report, *App.* p. 272.—Professors are provided by Government in the Universities, on whom this care devolves; and Private Tutors by Licence from Faculty of Professors, Bach, *Evidence*, 1236, 1237, and Mr. Greenwood's Report, *App.* p. 272.—Course of Law reading pursued in Saxony and other parts of Germany, Bach, *Evidence*, 1236–1238, Mr. Greenwood's Report, *App.* p. 272.—Student takes Degree of Doctor of Laws when he has passed Examination, and leaves the University, but to entitle him to practise must pass another Examination, Bach, 1246–1251.—After this he goes into office of Advocate, and fee is paid for this, Bach, *Evidence*, 1256–1259.—Profession is not divided into Advocates and Solicitors in Germany, ib. 1261–1262.—Throughout Germany Advocate performs most of duties of an Attorney in England, ib. 1263–1265, and Mr. Greenwood's Report, *App.* p. 272.—The Minister of Justice is Crown Advocate, and acts as Adviser and Minister, Bach, *Evidence*, 1265.—Control over Moral conduct of Advocates with the Judicial Authorities, Bach, 1274.—Mode of Admission to office of Judge. Student must bring with him Certificates of attendance upon Lectures at University, and also of good character, and proofs of sufficient means of subsistence during his probation, and applies to Government to be allowed to be admitted as Candidate for Judicial office, and is examined both orally and in writing, and begins as Clerk, and familiarises himself with Judicial business; makes digests of cases before Court with detailed arguments and conclusions for opinion of Judges; makes Reports and takes down evidence; registers proceedings for use of Court; acts as Clerk to Magistrates in criminal matters; draws Decrees, and has to continue as Hearer of Law (or Auscultator) his theoretical studies, and has to apply for Certificates of diligence, activity, and ability from Members of Tribunal. Undergoes another Examination in a variety of practical and theoretical subjects, and is raised to rank of "Referendarius" by Minister of Justice; has to spend half a year at old occupations in inferior Court; then a three months' course in taking evidence in Civil and Criminal Proceedings; then a third course for the space of twelve months to perfect himself in every variety of Written Pleading; is sometimes allowed to defend actions; draws up argumentative statements with opinion, and also acts as Taxing Master; draws up Orders of Court thereupon. After spending twelve months thus, he passes into Attorney General's office, and stays three months, and transfers himself with Certificates of such attendance to Chambers of an Advocate of Second Instance; exercises himself in Oral Pleading, and is qualified by leave of Court to act as Counsel in minor causes. This part of Probation lasts six months, and Certificate of proficiency is given by his Tutor, and he passes into Court of Appeal or Second Instance. From his nomination as Referendary to period of State Examination, 2½ years must have elapsed. This Examination is not required of those who have to practise as Advocates or confine themselves to duties of Puisne Judges in Courts of First Instance (Kreis or Amts-Gerichte). Those who pursue higher career are examined by a Special Commissioner of Superior Court for Examination. This last Examination is very severe. Probationer if passed is next nominated "Assessor." This degree confers no emolument or office, only a qualification. Performs variety of duties gratuitously. Attends the Bench but has no vote. Then the "Status pupilaris" terminates, though as yet he receives nothing. Takes six or seven years from time of quitting University till he attains degree of "Assessor." After this he has to wait for vacancy; but neither Advocates, Notaries, nor Magistrates need undergo this third probation, but get appointed earlier. In all other respects Education of Advocate and Judge identical, and only sever here, Bach, *Evidence*, 1275; and Mr. Greenwood's Report, *App.* p. 272.—No distinction between Common Law and Equity in Germany, Bach, 1277, 1278.—As to the different Codes of Law in practice in Germany, Bach, 1279.—Dr. Gneist of Berlin, says, that most of these are founded on the old Roman Law elements with ancient customs of Germany, Mr. Greenwood's Report, *App.* p. 272.—Medical Jurisprudence is part of Student's Legal Education, and the course takes from four to six months, 1 Semester, Bach, *Evidence*, 1281–1284.—Roman Law is too much the foundation of Pleadings, &c. in Germany, Bach, 1286.—German Jurists regard it as furnishing best Rules for Exposition and Application of all the rest; it is followed out too strictly, and Education of Jurists is not sufficiently practical, Mr. Greenwood's Report, *App.* p. 272.—Law terms are in Latin in Germany, Bach, *Evidence*, 1287.—Principles of the Roman Law are principles of all modern Law in Germany, ib. 1293.—Advocates' fees fixed by Law, and sometimes an honorarium, Bach, 1294–1297; and Mr. Greenwood's Report, *App.* p. 272.—No uniform course of Study prescribed to or imposed by Universities upon their Pupils, and regulations as to attendance upon Lectures vary in different States. Course of Lectures, &c. used. Course of Law reading

GERMANY—*continued.*
in University of Berlin taken, three years or six Semestres. Course of Lectures indispensable, &c., Mr. GREENWOOD'S Report, *App.* p. 272.—Study of Law not regarded as branch of liberal Education in Prussia, nor in any other States of the Confederation, ib.—Not usual to attend Chambers during periods of study in Universities. English Inns of Court offer better opportunities for Legal Education, ib.—In Prussian States emoluments of Bar much greater than salaries of Judges and Advocates; when appointed are assigned to particular Courts, and must practise there, ib. Gentlemen of rank rarely embrace Legal Profession, and status of Advocate regarded rather as a trade than as a liberal Profession, ib.—Courts of Law divided into Three Instances in Germany, ib.—This system has produced excellent Judges, but Advocates are not spoken of so favourably, ib.—Number and severity of Examinations unfavourable, and Legal Education works well in German Universities; and Judges of Superior Courts now chosen from Officers and Judges of Inferior Courts, ib.

GNEIST, DR. RUDOLPH, of Berlin.—Opinions on Legal Education and System pursued in Germany. Mr. GREENWOOD'S Report, *App.* p. 272.

GRAY'S INN.—Reply to Circular from Treasurer of, *App.* p. 249. Real Property, Chambers, Bench Chambers, Benchers' Fees, Income, Funded Property, Rents, Students' Admissions, Calls to the Bar, Calls to the Bench, Officers' Fees, Commons, Preachers, Readers' Roll, Library Fund and Table of Expenditure, WHITMARSH, 592–615.—Table of Rents derived from Property with Returns, &c., *App.* p. 253.

GREENWOOD, THOMAS, Esq.—Report as to System of Legal Education in Germany by, founded chiefly upon Communications with Drs. Warnkönig, Wangerow, Mittemaier, Wahloff, and Gneist, Baron Zwierlein, Mr. F. Lade, Mr. Bach, Dr. Meyer, and Mr. Hopman; first, as to Codes of Law in Germany; second, as to Course of Education; third, Composition and Constitution of Courts of Law; fourth, Advantages and Disadvantages of the System; fifth, the Study of the Roman Law; sixth, the probable result of introducing the Study of the Civil Law and Roman Law in the Education of English Lawyers, *App.* p. 272.

GREGORY, Mr. THOMAS, Analysis of his Evidence.—Is Steward of Clement's Inn, which consists of a Principal, and Ancients, and Commoners, 789–793.—Commoners are admitted by Bond, 794.—Applicant must be a Solicitor, 795.—Dinner is provided for Ancients, but Commoners pay, 798.—The Inn possesses no property but Chambers, 801–803.—Not an Incorporated Body, 804.—No Trust declared, 805–811.—Members no special privilege, 817.—Income, &c., 823–826.—No surplus, 827.—Property conveyed to Inn in 1677, 828.—In connexion with the Inner Temple, who sends a Reader, 831–837.—No Students; only Members attend, 839.—Dinners only one day in each Term, 850.—Thinks property of Inn not susceptible of improvement, 858.—Have no Library, 860.—Have no Chapel, 861.—Have no Chaplain, 863.

HARVEY, DANIEL WHITTLE, Esq.—Analysis of his Evidence.—Complains that at present a great injustice may be done by the Benchers, &c., for which there is no redress, 1663.—Thinks that a Mandamus from the Court of Queen's Bench to the Treasurer of an Inn should lie, to show cause why A. B. is not placed on the Books as a Candidate for admission to the Bar, and when he has been admitted, to show cause why the Benchers will not call. The Law is a great institution to which every citizen ought to have access, subject to Regulations; it should not depend upon the caprice of a Body. The Inns of Court are Private Clubs. Barristers ought to be as amenable to the Courts of Law as Attornies, 1664, 1665, 1666.—Would transfer the power of disbarring from the Bench to the Judges, 1667.

HASTINGS, GEORGE, W. Esq., Analysis of his Evidence.—Corroborates Mr. Lowe's statement as to opinion of the Society for Promoting the Amendment of the Law, 1626.—The existing state of Legal Education an improvement; but much good will not be done with out compulsory Examinations, 1628.—Examination for the Bar ought not to be merely as to professional knowledge, 1629.—The study of the Civil Law and General Law would be an improvement, and the Roman Law, 1630, 1631.—There should be some remedy for refusing admission to the Bar, 1633.—The rules of the Bar are not sufficiently defined, 1634.

HUNT, CHARLES EDWARD, Esq., Treasurer and Secretary of Barnard's Inn, 958., Analysis of his Evidence.—Society consists of Principal, Ancients, and Companions, 960.—No qualification necessary; must be professional men, 962–963.—Only admit those who are known to Society, 966–969.—Companions have advantage of dining, 970.—No Chambers, 971.—Ancients have dinners and small fees, 973.—No Chambers, 974.—Principal only allowed Chambers, 975.—No fines paid on Admission, 976.—Principal holds office for three years, 977.—Income, 979, 980.—Hold under Dean and Chapter of Lincoln. Pay considerable fines, 983.—Lease is for forty years. Pay fine for a renewal. In debt, 984.—Repairs are enormous, 985.—Have held under Dean and Chapter three hundred years, 987.—Readers used to come, two hundred years ago, from Gray's Inn, 991, 992.—We have no Library, 993.

INCORPORATED LAW SOCIETY.—See Letter from Mr. Allen, *App.* p. 259.—There is an extensive Law Library. Courses of Lectures are delivered. Society was incorporated in 1831, and is empowered to examine Articled Clerks before admission, BARNES and COOKSON, 1528–1579.—*See* CLODE'S Suggestions, *App.* p. 295.—Memorial to the Judges from, *App.* p. 287.—*See* Statement from Staple Inn, *App.* p. 261, TYRRELL, 714, 715–717.

INNER TEMPLE.—Reply to Circular from Treasurer of, *App.* p. 206.—Property, Income, Debts, Expenditure, Annuities, Repairs, Chambers, Bench Chambers, Benchers, Treasurer, Commons of, WHATELEY, 187–260.—Detailed account of the items of Expenditure, Payments, Salaries, and Receipts by, Students of, Commons in, and Servants employed by, BRYANT, 264–322.—Patent of both Temples, *App.* p. 207.—And Returns and Forms. *App.* p. 218.—

INNS OF CHANCERY.—*See* Clifford's Inn, *App.* p. 259.—*See* Lyon's Inn, TYRRELL, 661–696.—*See* Clement's Inn, GREGORY, 789–863, and *App.* p. 259.—*See* New Inn, JACKSON, 721–787.—*See* Staple Inn, THORNDIKE, 869–944; and PICKERING, 947–957.—*See* Barnard's Inn, 958–993, and *App.* p. 260.

INNS OF COURT.—*See* Inner Temple, WHATELEY, 184–260, and 348–358; and BRYANT, 261–322.—*See* Middle Temple, WHITEHURST, 435–516, and 555–575; and ELDRED, 560–565.—*See* Lincoln's Inn, FITZROY KELLY, 1, 2; and DOYLE, 42–183.—*See* Gray's Inn, WHITMARSH, 582–634; and BOSWOOD, 658–659.

INTERROGATORIES.—Prepared by The Hon. The Vice Chancellor Sir William Page Wood, *App.* p. 284.

JACKSON, SAMUEL BROWN, Esq., Analysis of his Evidence.—Is an Attorney and Solicitor, and Member of New Inn, 721–722.—Constitution of New Inn consists of four Tables, 725.—Mode of Admission is Bond, and taking Chambers and Fee, 727–732.—Steward receives rents and has salary, 734.—The property vested in Ancients as Trustees; held under Middle Temple by Lease of 1745, for three hundred years. There are Trusts. To allow Middle Temple to exercise Readings in Hall, 735–740.—Readings ceased in 1846, 742.—The Society has no provision for Legal Education, 760.—Rules of Society confining it to Attorneys, &c.; but this is deviated from, 762–763.—Income arises from rent of Chambers, 764–765.—Commons are provided at expense of Society, 766–773.—Only dine during Term, and on Pension days, 774.—Members on becoming Ancients have to buy Chambers for their lives, 776.—No accumulated funds, 784.—Ancients have no emoluments, 787.

JONES, M. ALGERNON.—Advocate of French Bar. Letter to Mr. Keating, on system of Legal Education in France, with Programme des Cours de la Faculté de Droit, from *App.* p. 270.—*See* FRANCE.

KELLY, SIR FITZ-ROY, Q.C., M.P., Analysis of his Evidence. (*See* Replies to Circulars from, *App.* p. 240.)—Is Treasurer of Lincoln's Inn, 1.—Cannot personally speak as to the funds of Society; the Hall cost 100,000*l.*; large debt due, and interest thereon paid annually. Thinks that till such debt be discharged there will be no further sum applicable to Legal Education; that Society pays now 500*l.* a-year for that purpose, 2.—The system of Lectures under Committee of all the Inns only recently adopted, 3.—Thinks the system so far works well, but does not think any extension would be practically useful. That under a Conveyancer, Special Pleader, or Barrister,

KELLY, SIR FITZ-ROY, Q.C., M.P.—*continued.*
substantially a Legal Education is to be acquired which will fit men for the Bar, 4.—Has not bestowed much attention on the subject of Examinations, but of opinion that compulsory Examinations for call inexpedient, but that there should be an Examination before admission to the Inn of Court, 5.—Men will prepare themselves from interest, 6.—Thinks Barristers have as general a knowledge of the Law as could be had by any system. When himself Student, had no time for general education, 7.—Thinks it desirable that sphere of knowledge should be enlarged, but that no system would impart any substantial knowledge of the Law, 8.—To make knowledge of Equity compulsory on those studying for the Common Law Bar would be overloading Students, 10.—He began as Special Pleader fifteen months after commencing study; had he had to study also Equity and Civil Law and pass an Examination, he must have deferred practising, 12.—Thinks a course of 12 or 18 months or two years in general Legal science would be valuable to Barristers, but doubts whether it should be compulsory; that three years is not too long for attaining competent knowledge for the practice of that branch which they intend to practise, but if compulsory on all to study also the other branches, the means and ability to begin to practise at the expiration of time would be interfered with, but that every facility should be held out and Lectures in Civil Law, Equity, and Common Law given, 13.—Thinks that no knowledge of Law, besides what may be acquired in the Chambers of persons practising in those branches, ought to be imposed as of necessity; that the present Lectures are enough to call attention to the subject, 14.—No test should be employed except such as would secure a liberal education and honourable character. That tests as to knowledge of Law are inexpedient and fallacious, 15.—There is no test of liberal education in the Inns of Court now, 16.—Thinks that at some period (and in his opinion, on admission) there should be an Examination to satisfy the Inn that the Student has had a liberal education, and inquiries should be made as to his character. That it may be a benefit to the public that persons should be called who have a very moderate knowledge, but who from six months' residence in Barristers Chambers may have qualifications for being a Magistrate, or various duties of Society, and that he would not exclude all but such as passed an Examination, 17.—Prefers an Examination previous to Admission. There is evil in men of bad character, but none in their not possessing ability. There is no evil in many failing, 18.—Does not object to compulsory Lectures, but that they should be few, 19.—After call, men may acquire qualifications in other branches by voluntary study, 20.—Thinks that men should be three years on the books before Call, 22.—That arbitrary directions as to his studies during the three years inexpedient, 23.—Does not see expediency of Examination. That tests as to proficiency in Law are of no avail, 24.—That compulsory Examinations might deter Country Gentlemen from attending the Inns of Court, which would be an evil, 25.—The Army is a different case. That it is important Country Gentlemen and others should have some knowledge of Law, which they would acquire if entered at an Inn of Court. That tests of Examination would exclude such, 26.—There is some dignity in being called to the Bar, which may induce such men to acquire knowledge, 27.—That historically, the period during which a person's name must be on the books was supposed to be a period of study, under the sanction of the Inns, 28.—Thinks there are no Trusts connected with the property of Lincoln's Inn. That any compulsory studies or system which would interfere with free will of Student would be an alarming innovation. That experience is in favour of the present system, 29.—Fancies that till within the last fifty or sixty years men acquired their knowledge by attending Lectures and Pleadings, 30.—There is no experience of any other system, 31.—Would compel studying under a Barrister or Special Pleader, 33.—That the modes by which a Barrister teaches his pupils is the best. No system in the way of a College would succeed so well, 34.—Thinks existing Lectures have done well; but no extension would be beneficial, 36.—No system of Legal Education could be established by the Inns that could be supported by their revenues. Lincoln's Inn could not supply the cost of a school of Legal instruction, unless present system of dinners, &c. were

KELLY, SIR FITZ-ROY, Q.C., M.P.—*continued.*
abolished, 37.—That the attendance at Lectures should be compulsory, and not put alternatively, 38.—Examination of no practical use. Does not see the mischief of incompetent men being called, 39.—Thinks that practice affords sufficient guarantee of fitness. That some scheme of Legal Education might be suggested in which the funds of the Inns might be applied to afford such education to the Members. Does not think that any system which can be devised will be better than that now adopted, 41.

LACAITA, Signor J. P.—*See* Letter from, as to preparation for the Bar in the Kingdom of the Two Sicilies, *App.* p. 282.

LAVIE, GERMAIN, Esq.—Opinions of, *App.* p. 282.

LEWIS, WILLIAM DAVID, Esq., Analysis of his Evidence.—Was Reader at Gray's Inn before present system of Legal Education was established. Appointed May 1847, 1389–1390.—Held office five years. Attendance was voluntary. Average attendance about sixty, 1392–1394.—Began lectures in November 1847. Established Mootings with Examinations; also an Annual Examination for Honours; Mootings once a fortnight. Attendance was voluntary, 1395–1402.—There were Oral and Written Examinations, 1403–1406.—Not more than thirteen came to Annual Examination. Fee was paid by Students when system began, but was abolished in 1848. An increase of attendance after this. There were two Courses in a year. Students came from all the Inns, 1407–1412.—Has found system of Lectures, Mootings, and Examinations successful, 1413.—Thinks Oral instruction and Private Classes would not supersede attendance at Chambers, but might shorten the time, 1414–1415.—Lectures bring the Philosophy of Law under review, 1416.—Thinks it would be advantageous to Profession that Advocates should have scientific knowledge of Law, 1418.—Is against compulsory Examinations, 1419.—Thinks the Bar should not be restricted to practitioners, 1420–1426.—Is doubtful as to a Legal University in London, 1427–1428.—Thinks Legal course at the University might be carried farther, 1429–1434.—The Inns of Court ought to give expositions in Law, and opportunity of proving competency, 1435.—Examinations should be as near call as possible, 1438.—Suggests that Lectures should be in writing, 1439.—In favour of a Lecturer on Medical Jurisprudence and of Moots, 1440–1441.

LINCOLN'S INN.—Reply to Circular from Treasurer of, *App.* p. 240.—Property, Receipts, Rents, Regulations, Income, Expenses, Liabilities, FITZROY KELLY, 1; and DOYLE, 44–183.—Abstract of Muniments of Title of, *App.* p. 241.—And Returns and Forms, *App.* p. 243.

LOWE, Mr. JOHN, of Broad Oak, Accrington.—Suggestions as to Legal Education from, *App.* p. 288.

LOWE, ROBERT, Esq., M.P., Analysis of his Evidence.—Attends from Society for Promoting Amendment of the Law. Their opinion, and he himself thinks there should be an Examination previous to admission as Student, and a compulsory one before Call, 1593.—Doubts advantage of compulsory attendance at Lectures, 1594.—It is a good regulation that Students may escape attendance at Lectures by submitting to Examination, 1597.—That more than the qualifications for a University Degree might be required for the admission of the Student, 1599.—Thinks these Examinations would not exclude Country Gentlemen, 1600.—Is against Honours for the Bar, 1601.—Opposed to compulsory Lectures, 1603.—Approves of Private Classes, 1607.—Thinks the Examination for Call should give evidence of capacity as an Advocate or a Judge, 1609.—Would have the Examination more practical, 1610.—Would leave higher branches to option, 1611–1613.—Examination previous to becoming Student should only be as to proficiency in liberal knowledge, 1614–1617.—The Inns of Court are in decay, and there should be some central authority to confer the Degree of Barrister, 1618.—The Inns of Court might appoint such a body, 1619.—All English gentlemen ought to be educated in Law, 1620–1621.—The Benchers of the Inns of Court ought not to be self-elected, 1623.

LYON'S INN.—Reply to Circular from Mr. Tyrrell of, *App.* p. 260.—Constitution of, TYRRELL, 662–666.

MAINE, HENRY, J. S., Esq., LL.D., Analysis of his Evidence.—Has filled office of Reader on Jurisprudence and Civil Law to the Middle Temple for some time, 1090.—During that there have been five

MAINE, HENRY J. S., Esq., LL.D.—*continued.*
Examinations, 1091.—Students are compelled to attend Lectures; Examinations and Private Classes are voluntary, 1092–1093.—Attendance at Lectures has much increased, 1094.—At Private Classes varies, 1096–1097.—The number presenting themselves for Examination is small, but all who had a prospect of Honours, 1098.—Answers to Examinations have astonishingly improved, 1099.—Has heard that new system interferes with attendance in Chambers, 1103. —Present system has succeeded, but course defective from absence of compulsory Examination, 1107.—Recommends retaining obligation to attend Lectures; that one of those selected should be Jurisprudence and Civil Law, or Constitutional Law and Legal History; that course should be attended within a limited period after joining Inn of Court; and that the speculative branches of study should be engaged in before the practical, 1109.—Compulsory Examination the only means of ensuring industry, 1111.—Final Examination sufficient. Minor Examinations of Private Classes might be useful, 1112.—Would not omit Jurisprudence and Civil Law, or Constitutional Law and Legal History from subjects of Examination, 1113.—Thinks a compulsory Examination would not necessarily repel a class who lend distinction to the Profession, 1114.—The country may have a right to Examination of those who come to the Bar to qualify for appointments, 1115–1117.—A scheme has been adopted at Cambridge for a Faculty of Law, 1118.—It would be advantageous for Legal studies to be commenced at the University, 1120.—Honours for Law will be bestowed at Cambridge. There is now a School of Law at Oxford, 1122.—Thinks there would be time for persons who have left the University, besides reading two years with a Pleader, Draftsman, or Conveyancer, to acquire the knowledge of Law as a Jurist by attending the Lectures and Examination, 1126.—If Student did not go to the Practitioner's Chambers till he had finished his preliminary education with the Readers, the time with the Practitioner might be diminished, 1128.—Should prefer limiting course of study in the Schools of the Inns of Court to two years, with compulsory Examination at the end, granting call to the Bar immediately after, and then enforcing a year of Silence, 1131.—Gentlemen are usually employed three years in study before Call, 1133–1139.—Thinks full benefit of the Lectures cannot be derived without Student's knowing that he has to pass an Examination, 1140.—Party ought to have the elements of a liberal education before admission as Student, 1141.—And compulsory Examination before admission to the Bar would secure Students having necessary information before Call, 1142. —It would be advantageous that gentlemen likely to become Magistrates should take a Degree in Law upon an Examination, and be called to the Bar upon the Degree, 1144.—Sees no objection to an Examination and a Degree by Faculty of Law, 1145.—Does not wish person to be advanced to Bar per saltum; *method* of education is as important as *knowledge* acquired; drawback on Examinations is danger of cramming, 1146. —Private Lectures great benefit; they would open the Bar to a class now excluded, 1151.—And compulsory Examination would guarantee the acquirements, 1152. —Thinks that acquaintance with principles is becoming more important, and also the study of the Roman Law, 1153.—The Private Class is a catechetical Lecture, 1156. —Suggestions for improvement of present system.

MARTIN, The Hon. Mr. BARON.—Replies to "Queries," *App.* p. 262.

MAUGHAM, ROBERT, Esq., Secretary of Incorporated Law Society, Analysis of his Evidence.—Thinks the surplus rent derivable from the Inns of Chancery should be applied to the improvement and education of attorneys, 1459–1463.—(Memorial sent in by, *App.* p. 287.)

MIDDLE TEMPLE.—Reply to Circular from Treasurer of, *App.* p. 234. Real Property, Bench and other Chambers, Admission to Bench, Funded Property, Fees, Rents, Fines, Calls, Duties, Officers' Fees, Students, Benchers, Treasurer, Dividends, Commons, and Expenditure, WHITEHURST, 464–506. Tabular Form of, Income and Expenditure of, Number of Students Dining in Hall of, and Copy of Covenant of New Inn with, *App.* p. 235.

MITTEMAIER, Dr., of Heidelberg.—Opinions on Legal Education and System pursued in Germany. Mr GREENWOOD's Report, *App.* p. 272.

NAPLES, OR THE TWO SICILIES.—System of Legal Education in the Kingdom of, *see* Letter from Signor J. P. Lacaita, in *App.* p. 282. Student undergoes a course of five Examinations before Professors of Law in the Universities, which occupy from 4 to 5 years; then obtains the Laurea and may practise, *see App.* p. 282.

NEW INN.—Reply to Circular from Treasurer of, *App.* p. 260. Constitution of, Income, Commons, JACKSON, 721–727.—Covenant with Middle Temple by, *App.* p. 235.

PHILLIMORE, JOHN GEORGE, Esq., Q.C., M.P., Bencher of Lincoln's Inn., Analysis of his Evidence.—Is a Queen's Counsel, 1467.—Reader of Constitutional Law and Legal History, appointed by Council of Legal Education, and has been for two years, 1468–1469. —Thinks present system beneficial. The Lectures prevent first year at Chambers being thrown away, 1470–1472.—Has a numerous Private Class, 1476. —From ten to twelve, varying from four to five, 1477.—There is improvement in Examinations, 1478. —Examinations should be compulsory. Students should not be obliged to attend more than two of the Courses of Lectures, of which Constitutional Law, &c., or Jurisprudence, should be one, 1479.—Jurisprudence includes the Pandects, 1480.—Would not put the standard for a Pass through a compulsory Examination high, 1483.—Doubts the benefit of an Examination preliminary to Admission as Student, 1485.—The great evil of the Profession is the dependence of the more highly educated branch upon a class inferior to it, and this can only be obviated by improving the education of Barristers, 1486.—Places little confidence in Certificates from Universities or Schools, 1488.—English Bar inferior to that of other countries, and except Lord Mansfield, no great man produced by English Bar since days of Lord Somers, 1490.—There are too many Examinations in the year, 1493.—Examinations would not deter gentlemen of fortune, &c., 1497–1498.—Does not think it would answer to call men to the Bar for one payment, and then on increased payment give a licence to practise, 1499–1500.—Does not approve of forming the Inns of Court into a University; the Inns as constituted are capable of doing the duties required, 1501–1502.—Would have attendance at Lectures and the Examination both compulsory, 1503.—Attributes the superiority of the French Bar to the study of Roman Law and Jurisprudence, and the absence of the power of Attornies over the Bar, 1505.—There is less chicane in the French system, 1506–1507.—Thinks that preparatory education for the Law could not be done in the University, 1508–1509.—If a man can read and write, would admit him in the Inns of Court, 1511.—Would not require Latin and Greek, 1512.—Any person of moral character, even if he belonged to humblest classes, should have opportunity of being candidate for the Bar, 1514.—Examination previous to admission as Student might discourage men, 1516. —The influence of Attornies should be diminished, 1516.—Such Examination would not get rid of objections to present state of things, 1518.—A man might fulfil many of the duties of a Barrister without knowledge of Latin and Greek, 1521.—Examination previous to admission would close an avenue to distinction to lower classes, 1523.—Particularly insists on Examinations, and that Studentships should be fewer, 1526.—Would make attendance at Lectures on Jurisprudence or Constitutional Law a sine quâ non, and a compulsory Examination; and is not immoveably adverse to the preliminary Examination of Students, 1527.

PICKERING, EDWARD ROWLAND, Esq., Author of Book upon Staple Inn, 947, Analysis of his Evidence.—It became an Inn of Chancery in reign of Henry the Fifth, 948.—No connexion with any Inn of Court, 950.—No Reader, 951.—Nothing done with reference to Legal Education, 954.—Thinks it impossible to make the property more available, 954.—Have no Chaplain, nor Lecturer, nor Chapel, and considers it a voluntary Society, 956–957.

PULLING, ALEXANDER, Esq., Analysis of his Evidence. —Was called to Bar in 1843, 1442.—Thinks Bencher's Rules and Acts of Parliament as to Special Pleaders disadvantageous, 1444–1445.—Class of Certificated Special Pleaders ought to be abolished, 1446–1448.—Bencher's regulations as to Pleaders, &c., illegal, 1449–1450.—In favour of some general system of education, 1452.—New rules of the Inns of Court are illegal, 1453–1454.—Compulsory Examination is necessary, 1458.

QUERIES.—Prepared by THOMAS GREENWOOD, Esq., *App.* p. 284.

STAPLE INN.—Reply to Circular from Principal of, *App.* p. 261. Constitution of, Property, THORNDIKE, 869–873 and 899–991.

STUART, The Hon. The VICE CHANCELLOR.—Reply to "Queries," *App.* p. 261.

THOMAS, GENERAL, Analysis of his Evidence.—Is conversant with practice of Law in United States, especially in New York, 995–996.—Has practised, 997.—Can inform the Commissioners of modern and previous system of Procedure, 998.—By original course in New York, Student to become an Advocate, had to Graduate at College and enter his name in an Attorney's Office, and there study three years. He was then examined by persons appointed by Supreme Court, and if he passed he was licensed as Attorney, practised three years as Attorney, and at first and second Examination had to produce Certificate of moral character, 999.—Certificate was from Counsellors. After practising as Attorney, there was Examination on principles of Law by Counsellors appointed by Supreme Court, 1000.—Students are four years at a University before they get a Degree, 1005.—After admittance as Counsellor, he can practice as Attorney or Counsellor, 1006.—Since 1846, the Examination has been for admission to Bar, the Degrees of Attorney and Counsellor not recognised, 1007.—No Degree required from University, and no Certificate. The Law open to all who pass Examination, and produce Certificate of moral character. Not necessary to attend Advocate's Office, 1008.—The Examination is as to principles and practice, 1009.—Occupies half an hour, 1010.—Much free trade in the Law, 1011.—The Examination is matter of form, and no test of Legal knowledge, 1012.—Is Oral, 1013.—No Latin Theses; the Examination is by Counsellors appointed by the Court, 1015.—No Examination as to scholarship, 1020.—Nor Latin, 1021.—A regular education is deemed necessary, 1024.—An Advocate may exercise any other calling, 1025.—There is a Law Association in New York, 1028.—The Court can degrade, and public opinion is effective, 1030.—That is sufficient practical check, 1031.—Is entirely satisfied with the new system, 1039.—Judges selected from Advocates, 1044.—Elected for eight years, and re-eligible, 1047–1049.—Abundant means for the study of the Law in New York, 1051.—In many Colleges there are Law Schools, 1055.—Approves of the amalgamation of the Attorney and Counsel, 1056–1068.—Counsel's fees are recoverable by Law, 1077.

THORNDIKE, ANDREW SNAPE, Esq., Analysis of his Evidence.—Is Principal of Staple Inn, 868.—There is a Principal, Ancients, and Juniors, 869.—Not an Incorporated Body, 870.—A Junior must be a tenant, 874.—Any respectable person may be tenant, 876.—If admitted, has privilege of keeping Commons, 883.—Dines in Hall, 884.—Pays nothing, but provides part of his own dinner, 885.—Pays fee on Admission, 887.—Ancients elected by majority, 892–895.—Principal elected also, 897.—Property consists of Chambers, 899–901.—Ancients must have freehold Chambers, 903–906.—They hold them for life, 907.—If he dies without surrender they revert to Society, 908–910.—Dinners in Hall three days in last week of Term and three days out of Term, 923.—Dinners of Ancients are paid out of funds, 926.—No surplus, 928.—Not connected with any Inn of Court, 938.—There are a few books, 942.—But no Chapel, 944.

TWO SICILIES.—*See* Naples; and *see* Lacaita's Letter in *App.* p. 282.

TYRRELL, TIMOTHY, Esq., Analysis of his Evidence.—Is Member of Lyon's Inn, 661.—It is a Private Company, 664.—Became a Member on purchase of Chambers, 667–670.—We have no pupils or Students, 690.—There are no dinners, 691.—Pay a fee to Inner Temple for a Reader, 693, 694.—There are no Trusts; no Library, 696.—Thinks Legal Education might be improved; Articled Clerks ought to be examined before articled, 710–713.—There are Lectures at the Law Institution, 714.—Attendance is voluntary, 715.—They would be more effective if there were Examinations, 717.

WAHLOFF, Dr. v., of Heidelberg.—Opinions on Legal Education and System pursued in Germany, Mr. GREENWOOD's Report, *App.* p. 272.

WALPOLE, REGINALD, Esq., Analysis of his Evidence.—Has been Reader on Conveyancing since commencement of new system, 1356.—About eighty Students attend Lectures, 1357.—Vary from thirty to five at Private Classes; but numbers decreasing, 1358 and 1388.—One year's attendance in chambers indispensible for acquiring practical knowledge, 1359, 1360.—The collision between Public Lectures and attendance in Chambers might be avoided by regulation. That for year previous to call, Student should be exempted from the Lectures, 1361.—Succeeding Examinations have shown advanced proficiency and those most proficient have constantly attended Lectures and Classes, 1362.—Advocates a compulsory Examination, 1363, 1364.—In favour of two Examinations; one compulsory for Pass, and one for Honours, 1365.—Compulsory Examination to be for all Students of not less than two years' standing; and interval of one year between that and Call, during which a Student could attend Chambers free from Lectures, 1366, 1367.—Sees no objection in Examination previous to admission as Student, 1371, 1372.—A general Faculty of Law in the Metropolis, elected from the Inns of Court as an University for Examinations and Degrees, would be advantageous, 1373–1375.—Wishes for a compulsory Examination that would oblige Students to attend Private Classes, 1376.—A Readership on Modern Civil Law would be advantageous, 1378–1383.—Thinks Moots would be advantageous, and that there should be two pass Examinations in the year, 1384–1387.—Suggests that the Student be required to attend three instead of two Courses of Lectures; in first year two, and one of these on Constitutional Law, or on Jurisprudence, the other optional. In second year a course on Common Law, Equity, or Real Property, at option. That attendance at these three courses be necessary preliminary to pass Examination. When passed, the Student to be entitled to Degree in Law, and at the end of one year to be called. That if pass Examination be instituted, the books and subjects of Examination be decided once for all by the Council of Legal Education, or the Faculty of Law.

WANGEROW, Dr. v., of Heidelberg.—Opinions on Legal Education and System pursued in Germany, Mr. GREENWOOD's Report, *App.* p. 272.

WARNKÖNIG, Dr. L. A., of Tübingen. Opinions on Legal Education and System pursued in Germany, Mr. GREENWOOD's Report, *App.* p. 272.

WHATELEY, WILLIAM, Esq., Q.C., Analysis of his Evidence. (*See* Replies to Circular from, *App.* p. 206.)—Is Treasurer of Inner Temple, 184.—Grant of James I. is a Grant of Confirmation, not an original Grant, 186.—Gives an account of the Property, Income, Debts, Expenditure, Annuities, Repairs, Chambers, Bench Chambers, Benchers, Treasurer, Commons, 187–260.—Thinks that the present system is beneficial, 323–324.—The Examination formerly previous to Admission was beneficial; after its abolition the numbers of men entering Inner Temple increased, though the Examination was very slight, 326–332.—Some of our most eminent men have thought compulsory Examination would be more injurious than beneficial, 333–334.—In early times men could not practise in Court till some time after Call and certain Moots. There were Inner and Outer Barristers, 336–337.—Thinks full benefit of Lectures cannot be derived without Examination; but more than Lectures should be had; a Course something like the Lectures at the Universities; the present Lectures by Mr. Broom at the Inner Temple, are of great use; but they would be useless without his Private Classes, 338.—Compulsory attendance at Lectures without Examination may dwindle into nominal attendance, 339.—Advocates for preliminary Examination as to general information before admission as Student. Would not except any. Would have a Board of Examiners appointed by Inns of Court, 340, 341.—Would include Classical literature in Examination, and Latin and Greek, 342–344.—More combined action on part of the Inns would be beneficial. Would like some one similar to Dean of Faculty in Scotland. If the four Inns like four Colleges constituted one Legal University, and some one at head of it acted as Dean of Faculty in Scotland, it would be beneficial, 345–346.—A preliminary Examination would be worth an Act of Parliament, 347.—States the time since which, and the circumstances under which, the Men of Law have been in the Temple; and gives an account of Tenure, &c., by which they still hold it, 348–358.

WHITEHURST, CHARLES HOWARD, Esq., Q.C., Analysis of his Evidence. (*See* Replies to Circular from, *App.* p. 234.)—Is Treasurer of Middle Temple, 435.—Income of Society is derived from Real property, Payments, Fees, and Funded property, 455.—Part of Chambers were purchased by the Society; remainder held under Grant of James the First; the uses under Grant of James and Deed of Partition of 1732, 456. —Not a Corporate body, 460.—Statement as to the Income from Real property, Bench and other Chambers, Admission to Bench, Funded property, Fees, Rents, Fines, Calls, Duties, Officers' Fees, Students, Benchers, Treasurer, Dividends, Commons, and Expenditure, 464-506.—Does not think reduction could be made, 507-511.—In 1850, five hundred and ninety-six Students dined in hall; last year three hundred and ninety, 512-514.—Last five years entries have fallen off, 515-516.—Thinks existing plan of Legal Education has failed, 518.—Places greater reliance upon Private than Public Lectures 519.—Attendance at Public Lectures proves nothing, they are compulsory, and therefore of little value, 520.—Thinks present Examination of no use, but dining in Hall and associating is advantageous, and thinks Inns of Court valuable as controlling power, 521-523.—Not much consequence whether a man when called be fitted to discharge the duties of a Barrister, 524-526.—Desirable that a man should be well informed, 527.—Practice necessary to acquirement of Law, 533.—Attendance in Court best Lecture, 534.—Does not approve of Examination previous to admission. Latin and Greek not necessary. Chief advantage of being on books of Inn of Court is association with Lawyers, 535-537.—Does not think present system could be improved, 541.—Members of the Bar are as well educated as they need be, but do not possess so general a knowledge as desirable, 542-543.—Might be improved by some system, 544.—It is the duty of the Inns of Court to improve the Students, 545.—Thinks it would require more than three years for a man to ground himself in Law, 547.—Thinks without discredit on one class, two kinds of Admission would be impracticable, 553-554.—An Examination would shut out all now coming merely for the name, 555.—There was a balance of 2,000*l.* this year in favour of Society, 555-557.—Students not Members of Universities, deposit 100*l.* on Admission to the Inn, which is returned on Call to the Bar; the interest in the interval thereon is received by the Society, 566-574.—Explains as to Title to New Inn, and the Deed of Partition of 1732, 575.—Suggests that Inns of Court be Incorporated, 576.—There should be some general rule as to Call, 577-578.

WHITMARSH, FRANCIS, Esq., Q.C., Analysis of his Evidence. (*See* Replies from Circular from, *App.* p. 249.)—Is Treasurer of Gray's Inn. The origin of Society cannot be traced. The property originally held under Lord de Gray's family, from the time of Edward the Third, 582-586.—No trace of any Trust in any document by which the Society held. The property ultimately conveyed in fee to Society in 1732, 590, 591.—The Real property consists of Chambers, &c. Statement as to Real property, Chambers, Bench Chambers, Benchers' fees, Income from Real property, Funded property, Rents, Students' Admissions, Calls to the Bar, Calls to the Bench, Officers' Fees, Commons, Preachers, Readers' Rolls, Library fund, and Table of Expenditure, 592-615.—Benchers receive no fees but get Chambers, 618-619. —Treasurer receives fees from Irish Barristers, 621.—Expense of, and charges for, Commons, 623-624.—Statement of relative prices in 1650 and now, 625, 629.—The buildings in decay, 631-633.—Demand for Chambers is small, 634.—Thinks no more can be done for education by Societies. Present mode highly beneficial, 635.—Against compulsory Examinations, 636.—Compulsory attendance at Lectures beneficial, 637, 638. —Is a Member of Council of Legal Education, 639.—Examinations are beneficial; but instead of compelling, would induce men to pass them by Honours, 643.—Mr. Lewis's Lectures in Gray's Inn were very useful, 645-552.—Advantages to Irish Student to come over and attend here, 653, 657.

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SECOND REPORT

OF THE

COMMISSIONERS

APPOINTED TO INQUIRE AND ASCERTAIN HOW FAR

THE MERCANTILE LAWS

IN THE DIFFERENT PARTS OF THE UNITED KINGDOM OF

GREAT BRITAIN AND IRELAND

MAY BE ADVANTAGEOUSLY ASSIMILATED,

AND ALSO

WHETHER ANY AND WHAT ALTERATIONS AND AMENDMENTS SHOULD BE MADE IN

THE LAW OF PARTNERSHIP

AS REGARDS THE QUESTION OF THE LIMITED OR UNLIMITED RESPONSIBILITY OF PARTNERS.

Presented to both Houses of Parliament by Command of Her Majesty.

LONDON:
PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

1855.

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CONTENTS.

Page.

COMMISSION - - - - - - - - - - 3

REPORT - - - - - - - - - - 5

ADDITIONAL NOTE by Mr. ANDERSON, Q.C. - - - - 27

APPENDIX A:

QUESTIONS circulated by the COMMISSION, and NAMES of the PERSONS and BODIES to whom they were addressed - - - - 37

EXPLANATION of ABBREVIATIONS - - - - - 39

POINTS OF DIFFERENCE in the Mercantile Laws, with the OBSERVATIONS thereon of Respondents - - - - - - 41

GENERAL REPLIES of Respondents - - - - - - 112

APPENDIX B:

POINTS OF DIFFERENCE in the Mercantile Laws - - - - 127

COMMISSION.

VICTORIA R.

Victoria, by the Grace of God, &c.: To Our right trusty and wellbeloved Councillor Thomas Berry Cusack Smith, Keeper or Master of the Rolls of Our High Court of Chancery in Ireland; Our trusty and wellbeloved Sir Cresswell Cresswell, Knight, One of the Justices of Our Court of Common Pleas in England; Our trusty and wellbeloved John Marshall, One of the Senators of Our College of Justice in Scotland; George William Wilshere Bramwell, Esquire, One of Our Counsel learned in the Law; James Anderson, Esquire, One of Our Counsel learned in the Law; Kirkman Daniel Hodgson, Esquire; Thomas Bazley, Esquire; and Robert Slater, Esquire, Greeting:

Whereas We have deemed it expedient, for divers good Causes and Considerations, that a Commission should forthwith issue to inquire and ascertain how far the Mercantile Laws in the different Parts of the United Kingdom of Great Britain and Ireland may be advantageously assimilated, and also whether any and what Alterations and Amendments should be made in the Law of Partnership as regards the Question of limited or unlimited Responsibility of Partners:

Now know ye, therefore, that We, reposing great Trust and Confidence in your Zeal, Discretion, and Integrity, have authorized and appointed, and by these Presents do authorize and appoint, you the said T. B. Cusack Smith, Sir Cresswell Cresswell, J. Marshall, G. W. W. Bramwell, J. Anderson, K. D. Hodgson, T. Bazley, and R. Slater, or any Three or more of you, to make diligent and full Inquiry, and to report to us whether it will be expedient that any and what Alterations shall be made in the Mercantile Laws of the United Kingdom in those respects in which the Laws of Scotland differ from those of England and Ireland, in order to their being assimilated, and also to report to us whether it will be expedient that any and what Alteration shall be made in the Law of Partnership so far as relates to the limited or unlimited Liability of Partners.

And for the better discovery of the Truth in the Premises, We do by these Presents give and grant to you, or any Three or more of you, full Power and Authority to call before you, or any Three or more of you, all such Persons as you shall judge necessary, by whom you may be informed of the Truth in the Premises, and to inquire of the Premises by all other lawful Ways and Means whatsoever.

And Our further Will and Pleasure is, that you do, within One Year after the Date of this Our Commission, or sooner if the same can conveniently be done (using all Diligence),

Certify to Us in Our Court of Chancery, under the Hands and Seals of you, or any Three or more of you, what you shall have done in the Premises.

And We further will and command, that this Our Commission shall continue in full Force and Virtue, and that you, Our Commissioners, or any Three or more of you, shall and may from Time to Time proceed in the Execution thereof, and of every Matter and Thing therein contained, although the same be not continued from Time to Time by Adjournment.

And for your Assistance in the due Execution of this Our Commission We have made choice of our trusty and wellbeloved William Dashwood Fane, Esquire, Barrister-at-Law, to be Secretary to this Our Commission, and to attend you; whose Services and Assistance We require you to use from Time to Time as Occasion shall require.

Given at Our Court at St. James's, the First Day of June 1853, in the Sixteenth Year of Our Reign.

By Her Majesty's Command,
(Signed) PALMERSTON.

SECOND REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN HER HIGH COURT OF CHANCERY.

We, Your Majesty's Commissioners appointed to inquire and ascertain how far the mercantile laws of the different parts of the United Kingdom may be advantageously assimilated, and also whether any, and what, alterations and amendments should be made in the law of partnership as regards the question of the limited or unlimited responsibility of partners, having in the last year made our Report on the subject of the responsibility of partners, humbly certify to Your Majesty that we have proceeded to consider the other matters submitted to our investigation, and present to Your Majesty this our further Report.

It appeared to Your Majesty's Commissioners, at the commencement of our labours, that any material change in an established system of mercantile law must be attended with some inconvenience, and therefore that assimilation merely for the sake of assimilation was not to be recommended, but ought to be resorted to only where it would remove some inconvenience that had been actually experienced, or might reasonably be anticipated, from the present state of the mercantile laws in the different parts of the United Kingdom, or effect some clear and safe improvement in the law of each.

In order to obtain information on this subject, we stated a considerable number of differences between the mercantile laws prevailing in different parts, and caused such statement to be printed and circulated amongst legal and mercantile men, requesting them to point out any other differences which might occur to them, and any practical inconvenience which they had known to arise from existing differences.

In the answers which we received there is a remarkable paucity of statements as to inconveniences actually experienced; and in dealing with many instances of difference we have recommended assimilation, not because evils had been traced to the existing state of the law, but because we think it probable that inconveniences may hereafter arise The printed papers so circulated, and the answers received, we propose to print in an Appendix * to this Report, in such a manner as to show in one view the answers received to each question. At the same time, in order to exhibit a connected view of the more important of those differences, we have prepared, and also propose to print in the Appendix,† a more matured statement of them. But in this Report itself we have noticed those differences alone as to which we recommend that some assimilation should be made.

Your Majesty's Commissioners entered upon the consideration of the differences in the laws of bankruptcy in England and Ireland and in Scotland, with the view of reporting whether, or how far, those laws might be advantageously assimilated. But while our investigation was in progress, we found that, on the one hand, a commission had been issued by Your Majesty to certain other persons to inquire generally whether any alterations were required in the bankruptcy law of England, as existing under the Bankrupt Law Consolidation Act, 1849; and that, on the other hand, extensive alterations in the bankruptcy laws of Scotland were proposed in a Bill which was introduced in the House of Lords, and entertained for discussion by their Lordships. It then appeared to Your Majesty's Commissioners that there would be a want of propriety, as well as of practical utility, in our proceeding further with an inquiry as to an assimilation of the two systems of laws. We deemed it our duty, however, before coming to any resolution on the subject, to submit the matter to the Lord Chancellor; and the opinion with which his Lordship

* Appendix A. † Appendix B.

favoured us having entirely coincided with our own, we, with his concurrence, discontinued our deliberations as to the laws of bankruptcy, and that subject is not included in our Report.

The matters, as to which we propose some alteration in the existing laws, may be arranged under the following heads; viz., I. Sale of Goods. II. Debtor and Creditor. III. Principal Debtor and Surety. IV. Bills and Notes. V. Bailment or Diligence Prestable. VI. Shipping. VII. Partnership. VIII. Limitation and Prescription.

Sale of Goods.

I. Sale of Goods.

Constitution of the Contract.

According to the law of Scotland, a contract of sale of goods is binding on the parties, although it be entered into only by verbal agreement; and if the parties embody their bargain in writing, or do any other external act to indicate the completion of the agreement, no such precaution, however useful it may be in facilitating a proof of the contract if it should afterwards be disputed, is essentially necessary to its constitution. The case is different in the laws of England and Ireland. By the 17th section of the English Statute of Frauds (29 Car. 2. c. 3.), and the 13th section of the Irish Statute of Frauds (7 W. 3. c. 12.), it is enacted that "No contract for the sale of any goods, "wares, or merchandizes for the price of 10*l.* sterling or upwards shall be "allowed to be good, except the buyer shall accept part of the goods so sold, "and actually receive the same, or give something in earnest to bind the bar- "gain, or in part of payment, or that some note or memorandum in writing of "the said bargain be made and signed by the parties to be charged by such "contract, or their agents thereunto lawfully authorized."

We are of opinion, that no party to a contract of sale of goods should be entitled to withdraw from the bargain, merely because it has not been accompanied or followed by writing, or some other ceremony. For obvious reasons, the important business of buying and selling ought not to be trammelled with unnecessary solemnities; and such transactions, if they be satisfactorily proved by legal evidence of any kind, ought to be binding. While it appears from all the evidence we have received from Scotland that no inconvenience is experienced in that country from this extensive class of transactions being thus left untrammelled, the evidence as to the practical working of the English and Irish rule is of a different tendency. The Manchester Chamber of Commerce state to us: "This Board would give a decided preference to the Scotch law. "The *practice* of Manchester has always been in accordance with it. In the "immense transactions which take place here, the use of a written contract is "the exception rather than the rule." And the Dublin Chamber of Commerce inform us, that "In the opinion of this Council the law of Scotland is to be "preferred. The vast majority of mercantile contracts are made without any "writing; and it is evident that they ought to be capable of being established "by 'parol or other legal evidence,' for the law as it now stands in England "and Ireland is obviously advantageous to the dishonest trader, and prejudicial "to the honest one."

This general contravention of the rule of the laws of England and Ireland in the practice of the great commercial emporiums of these countries, whereby most of the innumerable sales which are there daily taking place are left out of the protection of the law, indicates that the requirements of the 17th section of the English Statute of Frauds, and the corresponding section of the Irish Statute, are not now adapted to the practical management of commercial business. We therefore recommend that that portion of those Acts should be repealed, and that the laws of England and Ireland should, in this respect, be assimilated to the simpler rule of the common law observed in Scotland.

Evidence of Payment of the Price.

There is a difference among these laws of an opposite kind, as to the mode of proving payment of the price of goods. In England and Ireland such payment may be proved by either written or oral evidence; but in Scotland there must be either written evidence of payment, or an unqualified admission of payment, by the seller, or those in his right, on oath under a judicial reference (a proceeding which is observed in the practice of Scotland), excepting in the case of a ready money transaction, and excepting also where the payment does not amount to 8*l.* 6*s.* 8*d.* sterling (100*l.* Scots), when it may be proved by any kind

of legal evidence. Although purchasers, for their own sakes, generally take written receipts for payments; yet, when a receipt happens not to be taken, or to be lost or destroyed, and a demand is made on the buyer to pay for the goods a second time, he should not be compelled to yield to such an unjust demand, if he has it in his power to prove the payment by satisfactory oral testimony. And if, on some occasions, witnesses may be uncertain as to the precise purposes to which payments made in their presence were intended to be applied, the party on whom the burden of proof lies would suffer the disadvantage, as he must always establish an alleged unvouched payment by satisfactory evidence. We recommend that as to this matter the law of Scotland should be assimilated to the laws of England and Ireland.

Reserved bidding at Auction.

In Scotland, when goods are sold by auction, the seller cannot legally be a bidder, either directly or by employing another person to bid for him, unless he shall have expressly reserved a right to do so in the conditions of sale, and shall have publicly announced such reservation at the time of the sale. In England and Ireland the seller may employ one person to bid for him without notice to the other bidders. We are of opinion that neither of these rules is unexceptionable. The Scottish rule exposes the seller to the risk of collusive agreements among intending bidders to abstain from competing, so that each of them may participate in the purchase at an under value; and there is reason to believe that such collusion is often practised. On the other hand, the English rule enables the seller, by the employment of a puffer, to lead third parties to bid a price beyond the value of the article. Both of these evils would probably be avoided in a great measure by allowing the seller to have one bid, but only one, either directly or indirectly, unless an express stipulation to the contrary be made a condition of the sale, and be publicly announced at the time.

The laws of England and Ireland differ from the law of Scotland, as to the liability of buyers to be deprived of goods sold to them, by third parties claiming a preferable right thereto, in two classes of cases, as to which, we think, the laws may be assimilated with advantage.

Stolen Goods.

1. Where goods, which have been stolen, and afterwards sold and delivered to a bonâ fide purchaser, are claimed by their proper owner, the law of Scotland gives effect to that claim. It entitles the owner to obtain restitution of his property, leaving the purchaser to seek his redress from the seller or the thief. The laws of England and Ireland are the same, unless the sale of the goods takes place in market overt, in which case a sale of stolen goods to a bonâ fide purchaser is effectual, and can only be defeated by the conviction of the thief on the prosecution of the owner. In every such question between an owner and a bonâ fide purchaser, one of two innocent parties must suffer, in consequence of the fault of a third party; and the question is, which of them should be the loser? Strong reasons may be urged in favour of both parties; but the preponderance appears to be in favour of the owner of the goods. On principle, he should not lose his right of property in his goods without either his consent or his fault. And the purchaser, by making due inquiry as to the history of the goods, might often ascertain whether or not they have been honestly acquired by the seller, or those from whom he received them. And although the rapidity, with which commercial transactions require to be managed, cannot always allow time and opportunities for such inquiries, and bonâ fide purchasers of goods from parties in the full possession of them ought not to be unnecessarily exposed to the risk of a defect in the seller's title; yet the interests of commerce itself require, in several cases, that even a purchaser should be subject to such a risk. The numerous classes of mercantile transactions—the hiring or the carriage of goods for example—under which the owners of goods entrust the possession of them to others for temporary purposes, could not be safely entered into, if such temporary possessors could effectually defraud the owners by selling the goods. This is not permitted by the law of any part of the United Kingdom; and as buyers are thus subjected to the risk of defects in the title of sellers, even when the possession of the latter has originally been honestly obtained, there is less hardship in subjecting them to such risk when the possession has been obtained by theft. And practically due caution on the part of purchasers in dealing only with parties of good character will, in general,

Sale of Goods.

be a sufficient protection against risk of this kind. As a matter of public policy also the Scottish rule is preferable, because it is generally easy for a thief to transfer the stolen goods to an accomplice, under the disguise of a bonâ fide sale to the latter, without there being means to detect and expose the fraud. Experience shows that there is no effectual security against frauds of this kind by protecting only those sales which are made in market overt. This is particularly the case in the City of London, where every day, except Sunday, is held to be a market day, and every shop is held to be a market overt as to the kind of goods in which the occupant usually deals. We think, therefore, that the distinction in favour of sales in market overt ought to be abolished ; and that as to this matter also the laws of England and Ireland ought to be assimilated to that of Scotland.

Rights of execution creditors of the seller and of the buyer, after sale and before delivery of the goods.

2. In England and Ireland goods, which are sold by the owner, but left in his possession by the buyer, cannot be seized at the instance of an execution creditor of the seller, in satisfaction of debt owing by him; but may be seized in the hands of the seller by an execution creditor of the buyer for payment of a debt of the latter. This is the case whether the buyer has or has not paid the price; but if the price has not been paid, the goods can be seized by an execution creditor of the buyer, only subject to the seller's lien for the price. In Scotland, goods in the predicament under consideration may be attached by an execution creditor of the seller, whether the buyer has or has not paid the price; and such execution creditor of the seller is preferred to the buyer himself, and also, of course, to an execution creditor of the buyer attaching the undelivered goods in the hands of the seller. But equity and expediency do not support the claim of the seller's execution creditor, because the effect of the first buyer leaving the subject of his purchase in the hands of the seller is not to facilitate the practice of a fraud or deception by the seller against his creditor. Such creditor is not defrauded nor deceived by the sale, because when he trusted the seller without obtaining any lien or security for his debt, he trusted only to the personal credit of his debtor, and not to any particular parcel of goods being appropriated for his payment, and left his debtor at full liberty, in the exercise of his right of ownership, to sell the goods at his pleasure. Indeed, when the debtor is a merchant, such goods as are part of his stock in trade are left in his hands for the very purpose of his selling them in the usual course of business. We think, therefore, that as to this matter, the rule of the laws of England and Ireland is preferable to that of the Scottish law.

Sale after issue of warrant for execution against seller, but before seizure of the goods.

In another respect the laws of England and Ireland as to this matter appear to us to require modification. It is thereby held that the execution creditor of the seller is preferable to the buyer, although the sale take place before the actual seizure of the goods under the writ, if, before the sale, the writ has been placed in the hands of the sheriff. This is unfair to the buyer, as, until the seizure take place, there is nothing to warn him that the owner of the goods has been deprived of his right to sell them; and indeed the owner himself may often be in ignorance of this. In Scotland, although an execution creditor of the seller is in one respect more favourably dealt with, the warrant for execution has no such effect, by being merely placed in the hands of the officer who is to execute it, or until he actually proceeds to carry the execution into effect; and if during the intermediate period there be a bonâ fide sale of the goods, and the possession of them be obtained by the buyer, they cannot thereafter be attached by a creditor of the seller. We think that this is equitable and expedient.

We therefore recommend that the laws of the United Kingdom should be assimilated as to this matter of a competition between a buyer and an execution creditor of the seller, by making it the rule everywhere, that the right of the buyer of goods to obtain delivery of them, and the right of an execution creditor of the buyer to seize them in the hands of the seller, should be preferable to that of an execution creditor of the seller; and that the validity of a sale should not be affected by the writ or warrant being merely placed in the hands of the sheriff or officer by whom it is to be executed, if the seizure or attachment of the goods have not also taken place before the sale.

Right of the seller to retain the goods to secure a general balance due to him from the buyer.

In the case where the buyer, without receiving possession, actual or constructive, of the goods, sub-sells them to a third party, the sub-vendee is entitled according to the laws of England and Ireland to obtain delivery of the goods

from the original seller, on paying to him the price, or any part of the price, which may have been left unsettled; and the latter cannot withhold the goods from the sub-vendee, to secure payment of any debt which may be owing to him by the primary vendee, other than the price remaining unpaid, unless there has been an express agreement to that effect between these parties before the subsale. According to the law of Scotland, the original seller in such a case is entitled to retain the goods from the sub-vendee to secure payment—not only of the price stipulated in the original sale, or any part of that price, which may not have been paid,—but likewise of any other debt which may be owing, or become due to him, from the primary buyer, although such other debt may have no connexion with the goods or the sale thereof; and although there have been no agreement to that effect between the parties. We are of opinion that the rule of the laws of England and Ireland is consistent with justice and expediency; because by the original contract of sale the seller undertakes an obligation to deliver the goods on receiving payment of the price, and the sub-vendee as the purchaser and virtual assignee of the primary buyer's rights under that contract, ought to be entitled to enforce the primary seller's obligation of delivery, on performance or tender of performance of the counterpart of that contract; and also because such a right of retention as is recognized in the law of Scotland has practically an effect similar to that which would be produced by a general lien in favour of a seller over the goods sold by him, although abstractly that right of retention is of a different character from a right of lien, as after mentioned. We think it injurious to commerce to expose bonâ fide purchasers to the risk of such claims; and we recommend that as to this matter the law of Scotland should be assimilated to the laws of England and Ireland.

In making this recommendation, we do not mean to suggest that any further change should be made in two general principles in Scottish jurisprudence, already referred to, of which the rule under consideration is thought to be a legitimate consequence; namely, the rules,—that the right of property in goods is not transferred from a buyer to a seller by a contract of sale (as is the case in England and Ireland), until this is followed by tradition or delivery of the goods, — and that in certain circumstances a seller has a *right of retention* of the goods so long as the right of property thus remains with him, until any counter obligation whatever in which the buyer may be bound to him shall be performed. This right of retention is, as already mentioned, different in its nature and effects from a right of lien. It is described as follows in Lord Moncreiff's opinion in the case of Melrose *v.* Hastie and Company, 7th March 1851, Session Cases XIII. p. 810: "It is no case of lien that is main-
" tained by Hastie and Co. (the original sellers), but a right of retention
" under the existing law of Scotland. The nature of this right of retention
" is explained very clearly in a few sentences in Mr. Erskine's work. It
" arises in various circumstances, and is quite separate and distinct from
" any right of compensation, and it is recognized in many cases precisely
" where compensation cannot be pleaded. The right, in the plain sense and
" equity of it, consists simply in this, that when one man has goods in his
" possession which he is bound to deliver to another, but that other is debtor
" to him, whether for money or goods, he cannot demand delivery of the
" particular goods in the possession of the first until he shall pay the debt due
" by him to that party. It is not necessary that these counter obligations
" should arise out of the same contract. If the obligation exist, it is a matter
" of plain equity that the one cannot demand delivery until he shall pay the
" debt due by him to the other who holds the goods. It is a right of retention,
" not merely for payment of the price of the particular goods, but for payment
" of any general balance existing between the parties at the time when the
" demand of delivery is made." What we have suggested is—not that these principles in the law of Scotland should be abolished or changed, for they are extensively interwoven with other departments of the law of that country, the consideration of which does not fall within the scope of our commission, but merely,—that their consequences should not be pushed so far as to expose a *bonâ fide* sub-vendee, in the circumstances under consideration, to the risk of liability for such extraneous claims.

Such assimilation, however, would require to be guarded by a proviso that in Scotland the original seller should be entitled to attach the goods while

in his own hands for payment, or security, of such extraneous debts, by the diligence of arrestment, or poinding, as effectually as any other creditor of the primary buyer could do so; and that such attachment should be as effectual against any sub-sale, not intimated to him at the time of the attachment, as if it had been at the instance of a third party. Such a provision is not necessary at present, because the original seller's right of retention renders him preferable, even as to the extraneous debts owing to him by his immediate buyer, to other execution creditors of the latter; but a law which would deprive him of this privilege should not leave him as to these extraneous debts in a worse position than that of the other creditors of the primary buyer.

Specific performance, or damages.

If the seller fail to deliver the goods at the proper time, he may be sued by the buyer, according to the law of Scotland, to deliver those goods, and also to indemnify the latter for the loss, if there be any, occasioned to him by the delay; and the seller has not the option of paying the value of the goods, or damages for breach of contract, and withholding the goods themselves, if it be in his power to deliver them. The buyer has the alternative remedy of suing either for performance of the contract, or for damages for breach of contract. According to the common law of England and of Ireland, the buyer cannot in general enforce delivery of the goods; and his remedy practically resolves itself into a claim of damages, whether he sues specially for nonperformance of the contract, or brings an action of detinue for the goods themselves, or an action for the conversion of them. But in England under the 78th section of the Common Law Procedure Act, 1854 (17 & 18 Vict. c. 125.), any of the superior courts of common law at Westminster, or a judge or baron of such courts, has a discretionary power, on the application of the plaintiff, in any action for the detention of any chattel, to order that execution shall issue for the return of the chattel detained, without giving the defendant the option of retaining such chattel upon paying the value assessed.

We see no reason why a buyer of goods should not be entitled to compel the seller to perform specifically his obligation to deliver them in terms of the contract; or why, when such performance is in his power, he should have the option of contravening his engagement, and merely paying damages to the buyer. The Common Law Procedure Act affords a partial remedy in England; but it does not go far enough, and does not extend to Ireland. And we recommend that on this subject the laws of England and Ireland be assimilated to the law of Scotland.

Warranty.

There is also a difference in the laws of the different countries as to the seller of goods being under an implied obligation to warrant them against latent faults. If a specific article be sold for a full price, and if the fault be so latent as not to be observable at the time of the sale, the buyer on discovering the fault may, in Scotland, return the article, and is not bound to pay the price, and he may insist on its being returned to him if he has already paid it. There is an implied obligation on the seller to warrant that the article is of marketable quality, even against latent defects unknown to himself. In England and Ireland there is no such implied obligation incumbent on the sellers, except in particular circumstances,—as where there is a custom to that effect in a particular trade,—or where the article is bought expressly for a particular purpose, in which case there is an implied warranty that it shall be reasonably fit for that purpose. Perhaps the one rule cannot be said to be more or less just than the other; because the risk of latent faults is one of the elements which enter into the amount of the price, and that price may be expected to be adjusted, so as to be of greater or less amount, according as the party liable to this risk is the seller or the buyer. At the same time, as a matter of expediency, the English and Irish rule appears to be the preferable one, because the Scottish rule tends to create litigation, in consequence of the difficulty of ascertaining, in many cases, whether faults were latent or patent at the time of the sale; and still more whether or not the faults were of such a kind as to render the goods of unmarketable quality; this being generally a matter of conflicting opinion. As the rule of the laws of England and Ireland thus, without doing any injustice, saves much litigation on such questions, we recommend that the Scotch rule be assimilated thereto. It must be understood that we are not here referring to cases where fraud is practised; for the laws of both countries afford redress against fraud.

II. Debtor and Creditor.

Minors engaged in Trade.

In England and Ireland, a minor, or person under the age of twenty-one, is not liable on any contract, except for necessaries, as food, lodging, and clothing; in Scotland, males under the age of fourteen, and females under twelve, are not bound by any contract, although their property is liable for necessaries furnished for their benefit; but after those ages, if in trade, alone or in partnership, they are bound by contracts made in that trade. We prefer the Scotch rule as to the liability of the infant trader. No doubt there is and must be some difficulty in determining what is a sufficient trading to make the infant a trader within the rule; that, however, is a difficulty rather of fact in each case than of principle. But it does seem unjust towards the minor, and unreasonable, that he should be deprived of the power of dealing on credit, and consequently on equal terms with others, if he can find persons willing to trust him as tenant, employer of labour, or purchaser of goods. It is a disability on him, not merely of getting into debt to supply personal wants by purchasing for his own consumption, but of getting credit with a view to make a profit of the articles purchased on credit. It would seem almost as reasonable to avoid the contracts of a minor for ready money. Moreover, frauds are continually practised by infants through this rule of the English and Irish law on persons dealing with them in the belief they are of full age. We therefore recommend the assimilation of the law of England and Ireland on this head to that of Scotland; and of course, in the capacity to contract, which we think should be given to minors in England and Ireland, we include the power of binding themselves by bills and notes, as in Scotland.

Married women engaged in Trade.

There is a somewhat similar difference in the laws as to married women. In Scotland, a married woman whose husband is residing in a foreign country, and who is engaged in trade, can make contracts binding on her and capable of being enforced by her. In England and Ireland, with certain exceptions, the rule is different; her contracts in such case cannot be enforced against her, nor by her, except in her husband's name. In the case of married women living apart from their husbands, and carrying on a trade, it would probably be advantageous to them, if they were enabled to bind themselves by contracts made in their trade, and by negotiable instruments; and they would be prevented in some instances from perpetrating frauds by using their coverture as a protection from the payment of debts, which have been fairly contracted. But in order to give the creditors in such cases an efficient remedy for the recovery of such debts, it would be necessary to make some new law, settling the title to property acquired by married women under such circumstances; and that can hardly be done in a satisfactory manner, without considering the general state of the laws relating to the property of husband and wife, which we abstain from doing for two reasons,—first, because the subject is not within the scope of our commission,—and secondly, because we think that it would be injudicious to introduce any alterations into an important and extensive system of law in order to effect an object of comparatively little importance.

Evidence of discharge from performance of contract.

There is an important difference in the laws of the two countries in relation to a discharge from the performance of a contract. In England and Ireland, the discharge may be proved as any ordinary fact, unless the question arises in a court of common law upon a contract under seal, or of a more solemn nature, as of record; in Scotland the discharge must be proved by writing, or by the oath of the person supposed to have given the discharge; in other words, by him who denies it: the difference being—not as to the power of giving an oral discharge—but as to the mode of proving it. On this point we prefer the English and Irish law, having come to the conclusion that the fact of discharge—as well from liability on bills and notes, as in other cases—should be deemed capable of being proved by any legitimate evidence.

III. Principal Debtor and Surety.

Evidence of guarantee.

In England, the Statute 29 Car. 2. c. 3. s. 4. enacted, that "no action shall be "brought whereby to charge the defendant upon any special promise to answer "for the debt, default, or miscarriage of another person, unless the agree-

PRINCIPAL DEBTOR AND SURETY.

"ment upon which such action shall be brought, or some memorandum or note "thereof, shall be in writing, and signed by the party to be charged there-"with, or some other person thereunto by him lawfully authorized;" and a similar enactment was made for Ireland in 7 W. 3. c. 12. s. 2. But in Scotland, although in general a mercantile guarantee can be proved only by writing or the oath of the cautioner, yet it may be established by oral evidence, where it is an integral part of a contract between the creditor and principal debtor, which may competently be proved by oral evidence. We prefer the rule that prevails in England and Ireland on this subject, for it is one on which oral communications may frequently lead to mistakes. A vendor of goods may very honestly suppose that a third person means to guarantee the payment of the debt, when the latter may just as honestly mean only to express an opinion as to the solvency of the buyer, and to stop short of becoming security for him. Such mistakes lead to litigation and a conflict of testimony much to be regretted, whereas the English and Irish rule is simple, and easy of application, except in one particular, viz., the statement of the consideration for such guarantee; a matter which has occasioned some litigation, and, we fear, some failure of justice, in the English Courts. The majority of us are not disposed to interfere with the maxim that prevails in England and Ireland, "ex nudo pacto non oritur actio," but would preserve in those parts of the United Kingdom the rule that some consideration is essential to a valid contract; but we think that although a contract of guarantee to be valid should be in writing, oral evidence of the consideration for such contract should be competent.

Analogous to guarantees are "representations and assurances as to the "character, conduct, credit, ability, trade, or dealings of any other person, "to the intent or purpose that such other person may obtain credit, money, or "goods." By the 9 Geo. 4. c. 14. s. 6. these in England and Ireland are required to be in writing, and signed by the party to be charged therewith; and we think that the same rule should be extended to Scotland, if it does not already exist there,—a point upon which doubts are entertained.

Guarantee to or for a firm.

With regard to the duration of a guarantee, it appears to be doubtful whether any substantial difference exists between the laws of the different parts of the United Kingdom; but to extinguish such doubts it may be expedient to settle by an enactment when a guarantee given to or for a firm composed of several persons shall be deemed to have been extinguished by a change in the parties composing such firms. We would be disposed to recommend that a guarantee, whether to or for a firm consisting of two or more partners, should cease as to fresh transactions, when a change takes place in the partners, unless the contrary appears to be the intention, either expressly or by implication.

Privilege of surety. Process against principal debtor.

If in an engagement by principal and cautioner the latter binds himself only as cautioner, he has in Scotland a privilege, technically called *the benefit of discussion;* which means that he cannot be compelled to pay the debt until a step of execution, called a charge, be used against the principal debtor. In England and Ireland the surety has no such indulgence. Where the engagement of the principal and surety is joint, a suit for performance of the engagement must be directed against both, yet having obtained judgment or decree, the creditor is at liberty to enforce payment exclusively against the surety being living, and if there be two or more sureties, against any one of them who is living; such surety being left to adjust with the principal, and with the other sureties, if any, his rights to indemnification and contribution. When the obligation of the principal and surety is expressly joint and several, the creditor need not even sue the principal debtor before proceeding against the surety. As the object of a creditor in requiring a surety is generally to obtain payment of the debt when it becomes payable without the necessity of having recourse to legal proceedings, we think that the surety should not be indulged with the benefit of discussion, and that in this respect the law of Scotland should be assimilated to the laws of England and Ireland.

Privilege of surety. Assignment of creditor's securities.

In Scotland a surety has likewise the privilege, on his performing the obligation, of demanding from the creditor an assignation of the creditor's claim, not only on the principal debtor, but also on co-cautioners, and of all securities held by the creditor from or against the principal debtor, unless such assignation

would operate to the detriment of the creditor. In virtue of such assignation the surety, in order to operate reimbursement of his advances, may exercise all the rights of the original creditor,—excepting that in claiming against his co-sureties he must deduct the amount of his own rateable share of the debt. In England and Ireland the surety cannot have the benefit of such bonds or judgments or other securities as are held to be extinguished by the performance by the surety of the principal obligation; and is entitled only to an assignment of any bond or security by the principal debtor other than that which is so extinguished. The equity and the propriety of the Scottish rule are obvious, inasmuch as the surety obtains much aid in operating his relief from the hardship of having been compelled to pay another party's debt; and yet no detriment is thereby inflicted on any other party. The theory on which in England and Ireland a surety is prevented from obtaining a similar privilege is a subtlety which ought not to prevent the adoption of the Scottish equitable rule into the laws of those countries, and we recommend that such adoption should take place.

PRINCIPAL DEBTOR AND SURETY.

In England and Ireland an unqualified discharge by the creditor of one of several sureties operates as a discharge of all of them. In Scotland such a discharge of one would operate as a discharge of the co-sureties only to the extent to which the one, in whose favour the discharge is granted, is bound to contribute to the relief of the others. The Scottish rule appears to proceed on an assumption that the co-sureties suffer no detriment from such a discharge beyond the loss of a claim on the discharged surety for a contribution of his rateable share of the debt. But a majority of us think that there is a fallacy in such assumption, because the co-sureties lose also the benefit of the discharged surety's assistance and co-operation (on which they may have mainly relied on undertaking the engagement) in endeavouring to make the principal debtor himself perform his obligation; and that as it is impossible to estimate the extent of this loss, it is a salutary rule, that when a creditor so interferes with the interests of the sureties, they should be entirely discharged; and we recommend that this should be the rule in Scotland as well as in England and Ireland. But we make this recommendation only on the clear ground of equity above stated, and do not suggest the introduction into the law of Scotland of a theory on which the practical rule is founded in the laws of the other countries, as to the effect of the entire extinction of a joint obligation by the discharge of any of the obligants.

Discharge of surety.

According to the laws of England and Ireland the discharge of a written guarantee may be proved without writing. In Scotland such a discharge is proveable only by the writing of the creditor, or by his unqualified admission on "oath of reference." In regard to guarantees in mercantile transactions (and we give no opinion as to other kinds of transactions), we do not see why such a discharge should be ineffectual, although it be not embodied in writing, if it can be satisfactorily proved by oral evidence. We therefore think that this should be the rule in all parts of the United Kingdom.

Evidence of discharge of guarantee.

IV. Bills and Notes.

BILLS AND NOTES.

Between the laws of England and Ireland and of Scotland affecting negotiable securities, we have found considerable differences to exist; and we are of opinion that those laws in many particulars may be assimilated with advantage.

The laws differ as to the capacity of minors and married women to bind themselves by such instruments. Our opinion on this subject is embodied in our observations under the head of DEBTOR AND CREDITOR.

Parties.

With regard to the form of bills or notes: in Scotland, if they are issued without date, that omission can only be supplied by written evidence; whereas in England and Ireland, as in the case of deeds without date, which are treated as made when delivered, they are deemed to be dated on the day when they are issued, and of which oral evidence may be given. We believe the issue of bills and notes without date to occur very rarely, and then by the negligence

Form. Absence of date.

Bills and Notes.

of the maker; and if any inconvenience arises from permitting the time when such an instrument was issued to be proved, by oral evidence, it seems reasonable that the careless maker should suffer it; and we recommend that in future the English and Irish rule on this subject should be adopted in Scotland; but inasmuch as the instrument to found summary diligence should be perfect on the face of it, we do not propose any alteration with regard to that remedy.

Form. Negotiability.

There is another difference prevailing as to the form of a bill or note, which we think it necessary to notice. In England and Ireland a bill or note is not negotiable unless made payable *to order* or *to bearer*. In Scotland it is. On the one hand, it may be said, that the intention of parties is to be collected from their words, and if a bill or note is not in terms made payable to order or to bearer, it cannot be presumed that the parties intended it to be so. On the other hand, it has been observed, that bills and notes are essentially negotiable instruments, and that it must be presumed that the parties intended them to be so, unless the contrary be expressed; and we think this the more convenient rule, and that in future, throughout the United Kingdom, bills and notes should be negotiable, unless the negotiation of them is expressly on the face of them restricted.

Acceptance.

With regard to the acceptance of bills. In England and Ireland, before the passing of the Statute 1 & 2 Geo. 4. c. 78., an acceptance by word only or by detached writing was held sufficient, at all events in favour of a party to whom such acceptance was communicated, and who took the bill on the faith of it. From time to time eminent Judges expressed their opinion "that "it would have been better doctrine if it had been originally determined that "nothing else should amount to an acceptance than a written acceptance on "the bill itself." At length, in the 1 & 2 Geo. 4., an Act was passed whereby (c. 78. s. 2) it was enacted, for the whole United Kingdom, "that from and "after the 1st day of August 1821 no acceptance of any inland bill of exchange "shall be sufficient to charge any person, unless such acceptance be in writing "on such bill, or if there be more than one part of such bill on one of the said "parts." But in England and Ireland the law still remains the same with regard to foreign bills, the acceptance of which may be verbal or by detached writing. In Scotland proof of a verbal promise to accept is inadmissible as to both foreign and inland bills; but a written promise on separate paper to accept a foreign bill still amounts to an acceptance, so as to ground an ordinary action, and complete the bill as an assignment, but not so as that summary diligence may be used. The extent of the mercantile transactions which now take place between traders in the different parts of the United Kingdom renders it expedient that the same law should prevail in all parts of it; nor do we find sufficient reasons for adopting a different rule as to the acceptance of inland and foreign bills; and we recommend that the law on this subject shall be assimilated throughout the United Kingdom, and that no acceptance of a bill of exchange, whether inland or foreign, shall be sufficient to charge any person, unless such acceptance be in writing on such bill, and signed by the acceptor or some person duly authorized by him.

We also recommend that all bills drawn in one part of the United Kingdom (in which we would include the Isle of Man and the Channel Islands) upon a party in any other part shall be deemed inland bills.

Effect.

In Scotland a bill of exchange operates from the time of presentment for acceptance as an assignment of debt owing by the drawee to the drawer; but in England and Ireland, although bills of exchange and promissory notes are excepted out of the general rule that choses in action cannot be assigned, yet a bill has not the effect of assigning a debt, or money of the drawer in the hands of the drawee. We believe that the Scotch law on this subject is productive of benefit; and as debts may be assigned in equity, we see no sufficient reason for refusing to give the same operation to bills of exchange in England and Ireland in this respect that they have in Scotland, and recommend that the laws of the several countries shall on this point be assimilated.

Protest.

When bills of exchange, whether inland or foreign, are presented for acceptance or payment, and dishonoured, it is necessary, in Scotland, that there

should be a notarial protest, not only to found summary diligence, but to preserve recourse against drawer and indorsers, and no other evidence of dishonour is sufficient. In England and Ireland a notarial protest is required in the case of foreign bills only, and presentment and dishonour of an inland bill or note may be proved by any competent evidence in the same manner as any other disputed fact. With regard to foreign bills, the law is the same throughout the United Kingdom, and we see no reason for altering it; but as regards inland bills a notarial protest for the mere purpose of preserving recourse seems to occasion an unnecessary expense; and as in England and Ireland the fact of presentment is constantly proved by other evidence, we recommend that for this purpose the Scotch law shall be assimilated to the English and Irish; but we must not be understood to recommend that any alteration shall be made in the proceeding by way of summary diligence in Scotland.

Notice of dishonour.

In England and Ireland, when a bill, either foreign or inland, or promissory note, has been dishonoured, it is necessary to give notice of dishonour within a reasonable time, which in ordinary cases is held to be the next post after the day of dishonour. In Scotland the rule is the same as to foreign bills; but with regard to inland bills and notes, it suffices if notice is given within fourteen days. This time is allowed by the express words of the 12 Geo. 3. c. 72. s. 41. It is by some supposed that this clause was introduced from a misunderstanding as to the effect of the English statute 3 & 4 Ann. c. 9. s. 5. By that Act, s. 4., it was provided that inland bills might be protested, as in the case of foreign bills; and then s. 5. enacted that if such bills were not accepted in writing no drawer should be liable to pay any costs, damages, or interest thereupon, unless a protest were made for such non-acceptance, and within fourteen days after such protest notice thereof given to the party from whom such bill was received; and there was a similar provision for protest for nonpayment and notice thereof. It is supposed that the framers of the 12 Geo. 3. c. 72. s. 41. imagined that this statute of Anne had allowed fourteen days for giving notice of dishonour to preserve recourse, and therefore adopted that rule for Scotland. It cannot be doubted that assimilation on this point is desirable; and we recommend that the English and Irish rule as to inland bills and notes shall be adopted in Scotland, where the same rule already exists with regard to foreign bills.

Remedy.

With regard to enforcing payment of bills of exchange and notes, the law of Scotland affords greater facilities than that of England and Ireland. In the latter portions of the United Kingdom payment can be enforced by action only; a course which has often been considered to impose unnecessary expense and delay on the holder, for needy debtors and their advisers are fertile in expedients to postpone the day of payment. Before the 6 Geo. 4. c. 96. [England] it was very common for defendants to suffer judgment by default, and then sue out a writ of error, which could not be disposed of for a considerable time. To remedy that evil in England the 6 Geo. 4. c. 96. was passed, requiring bail in error in all such cases. Defendants then pleaded to the action, and so compelled the plaintiff to go to trial, and after obtaining a verdict, if the trial took place in vacation, he could not thereupon have judgment and execution until the following term, which at some periods of the year occasioned a delay of several months. For this a remedy was given by the 1 & 2 W. 4. c. 7. s. 2., which enabled the Judge before whom a cause is tried to give the plaintiff, after obtaining a verdict, immediate execution. Additional facilities for obtaining final judgment, where a defendant does not appear, were given by the 15 & 16 Vict. c. 76. s. 25 and 27. Similar enactments have been made for Ireland. But still a defendant may, on being served with a writ, appear and plead, and compel a plaintiff to go to trial before a jury, although he has no defence whatever to the action. In Scotland the proceeding known by the title of "summary diligence" was granted as to foreign bills by statute 1681, c. 20, and as to inland bills by statute 1696, c. 36, and was still further extended by 12 Geo. 3. c. 72. This remedy of "summary diligence" is competent only on such bills and notes as are formal in all respects. It proceeds on an extract (or office copy) of the registered protest on the bill or note, which is a warrant for execution. The protest may be registered in the books, either of the Court of Session, or of the Sheriff Court, to whose jurisdiction the debtor is subject. The issuing of the

BILLS AND NOTES.

warrant and the execution take place without any previous suit; the means of preventing abuse being first, that a charge or requisition of payment must be given to the debtor six free days before the warrant for execution can be put in force; and secondly, that during that period, or at any time before the execution is completed, a Judge (being one of the Lords of Session) who officiates in a Court called the Bill Chamber, and is accessible every lawful day throughout the year, may, if he see fit in the exercise of a sound discretion, stay the execution until the merits of any objection or defence which may be stated by the debtor shall be decided by the Court of Session; and such interim stay of diligence, if it be ordered, may also in the discretion of the Judge be allowed either unconditionally or only on condition of the debtor's finding security for the debt, or consigning the amount in bank. From the several extensions of the proceeding by summary diligence before mentioned we may conclude that during the intervening period it was found to work well; and the information that has been given to us tends to confirm that conclusion. We therefore recommend that in this respect the law of the several parts of the United Kingdom should be assimilated by establishing in England and Ireland some proceeding, similar to the Scotch summary diligence, to enforce payment of bills of exchange and promissory notes, which will protect the holder of a dishonoured bill from the expense and delay of a trial, when the debtor has no answer whatever to the claim.

We have seen two bills, one entitled "An Act to permit the Registration of "dishonoured Bills of Exchange and Promissory Notes in England, and to allow "Execution thereon;" the other entitled "A Bill to facilitate the Remedies on "Bills of Exchange and Promissory Notes by the Prevention of frivolous or "fictitious Defences to Actions thereon," which appear to have been introduced for the purpose of supplying a remedy for the evil above pointed out. We understand that both are at present under the consideration of the legislature, and therefore advisedly abstain from offering any opinion as to their comparative merits.

Consideration.

In all parts of the United Kingdom bills and notes import consideration; and in Scotland the presumption that there was consideration cannot be rebutted otherwise than by writing, or the oath of the holder, which the party sued is entitled to call for, provided he consents to be conclusively bound by the answer; a proceeding technically called "oath on reference." In England and Ireland the absence of consideration may be proved by any legal evidence, in the same manner as other disputed facts; and this rule we think should be adopted in Scotland.

Again, in England and Ireland proof that a bill or note had been lost, stolen, or fraudulently obtained, rebuts the original presumption of consideration, and casts upon the holder the burthen of showing that he gave consideration for it. In Scotland it is otherwise, and the party sought to be charged must show that the holder gave no consideration; but as that is a fact not within his knowledge, but within that of the holder, we think it much more reasonable that the latter should be called upon to prove the affirmative.

Indorsement when overdue.

The holder of a bill or note who has bonâ fide given value for it has, in general, a good title, although it may have been found, stolen, or obtained from a prior party by fraud. But a party taking a bill or note over due, in England or Ireland, takes it subject to all equities and objections to which it was subject in the hands of the indorser, as far as they are intrinsic to the bill, but not subject to any collateral matter, such as a right of set off against the former holder. In Scotland, the indorsee of an over due bill is not subject to latent objections attaching to it, if there be no marks of dishonour on the bill, and nothing suspicious in the transaction. But it seems to us that the English and Irish rule is preferable; that the fact of the bill being over due must be noticed by every person exercising reasonable care, and that the nonpayment of the bill at maturity ought to be considered sufficient to put the party on his guard as to taking it.

Evidence of discharge before payment.

The last difference which we propose to notice between the laws of the different parts of the United Kingdom with regard to bills and notes relates to the manner in which it may be established that the holder has discharged

Bills and Notes.

a prior party from his liability. In Scotland such discharge can only be proved by writing or oath on reference of the party suing. In England and Ireland such discharge may be proved by any competent evidence. It does not appear that there is any difference in the laws of the two countries as to the power of discharging a party orally, but only as to the medium of proof; and on this, as we have already stated under the head of Debtor and Creditor, we have come to the conclusion that the fact of discharge should be deemed capable of being proved by any legitimate evidence.

V. Bailment or Diligence Prestable.

Bailment or Diligence Prestable.

Carriers.

The law of carriers is not the same in the three countries. In England and Ireland the carrier is liable for loss by accidental fire; in Scotland not. We think the English and Irish rule should be adopted. We see no principle which makes the carrier liable for accidental losses in general which does not apply to loss by accidental fire.

VI. Shipping.

Shipping.

Disagreement among owners. Enforcing sale.

Differences exist between the laws of England and Ireland and of Scotland in cases of disagreement among joint owners of a ship, which it is desirable should cease, as their existence is calculated to give rise to great difficulties in the event of some of the owners living under one law and others under the other. In England and Ireland when there is a disagreement as to the employment of the ship the majority rules, the minority being only entitled to security for their share, but having no interest in the result of the employment, and having no power of compelling a sale. In Scotland, in addition to the remedy which may be had in England, any part owner may put an end to the joint ownership.

By the law of Scotland, whether the owners differ as to the employment of the ship or not, the holders of one half or more of the shares may compel a public sale; and the minority or any one of the joint owners is entitled to offer his share at a certain price to the other owners, and if the offer is not accepted, he may, by an action against the other owners, termed an action of "sett and sale," demand that they shall be decreed either to take his share at a certain price named by him, or to let him have their shares at the same rate, or otherwise that the vessel shall be sold by public auction, under the direction of the court, and the price divided among the owners, according to their respective shares. If the defenders to this action accept either alternative offered them by the pursuer, a decree is made in terms thereof; but if they do not, then a judicial sale is ordered, and the price realized is divided among the several joint owners according to their shares.

We consider this a useful remedy, and it does not occur to us that its introduction into the law of England and Ireland would be attended with any practical mischief. For the alternative form of the offer—buy my shares or sell me yours, or let the ship itself be publicly sold—which the owner wishing to put an end to the joint ownership has to make, will on the one hand deter him from demanding too much for his share, lest the other owners should adopt the second alternative, and sell him their shares at his own price, and on the other hand, supposing his scheme to be to obtain the shares of the other owners at an under value, he will avoid estimating the shares at too low a price, lest the other owners should take his share at such inadequate price; and further, if it were inconvenient to the other owners either to buy his shares or to sell their own, this inconvenience would be obviated by their adopting the remaining alternative, that the ship be sold by public auction.

But we hesitate to recommend that this remedy of the Scotch law shall be introduced into the law of England and Ireland: for, though we have consulted the principal Chambers of Commerce in the three countries, the answers we have received do not furnish sufficient information as to the opinions of practical shipowners on this subject; and the change might lead to inconvenient consequences which we do not foresee.

Repairs in home port.

With regard to the remedies of shipbuilders for repairs done to ships in the ports of England, Scotland, and Ireland, the ports of any one of those countries are deemed to be foreign ports in the courts of the other countries. In order to assimilate the rights of shipbuilders in the several ports of the United

SHIPPING.

Kingdom, we propose that every port in the United Kingdom (including the Isle of Man), shall for this purpose be deemed a home port in the three countries.

PARTNERSHIP.

VII. PARTNERSHIP.

1. *Private Partnership.*

Private partnership. Its nature.

By the law of England and Ireland a private partnership of two or more persons is not recognized separately from the copartners of which it is composed: but by the law of Scotland a private partnership is deemed to be a separate person in law, capable of entering into obligations and contracts, of holding personal property, and of carrying on legal proceedings, by its distinctive name or firm as its individual appellation. To these opposite principles many important practical differences in the laws of the three countries may be traced.

In Scotland, in unison with the Scottish principle, a partnership may sue, or be sued by any of its partners, and it is no objection to an action at the instance of one partnership against another, that there are one or more partners common to both. The law is the reverse in England and Ireland.

Again, in Scotland a partnership may sue or be sued by its personal appellation alone, whether the partnership be pursuer or defender. This rule, however, applies only where the company firm includes the name of one or more of the partners; *e. g.* "John Smith & Co.," "Smith, Brown, & Co." If the appellation of the partnership be descriptive merely, *e. g.* "The British Iron Company," it is necessary that the names of three at least of the members described as suing on behalf of themselves and all the other partners be joined along with the descriptive firm; and three will be sufficient however numerous the partners may be. In England and Ireland there is no place for this distinction, because it is not the partnership or company that sues or is sued, but the copartners carrying on business under the company firm, or designation; and these copartners are viewed as joint-tenants or joint debtors, or as jointly interested, and therefore it is necessary that all should concur in the action if plaintiffs, or be called before the Court if defendants. In Equity, indeed, if the partners are so numerous that it is impracticable to bring them all before the Court without great inconvenience, a few may sue on behalf of all.

We are of opinion that the principle of the Scottish law, which recognizes a partnership as a distinct and separate person, is a very convenient and useful one, and we recommend its introduction into the law of England and Ireland. But we at the same time think that regulations should be made for enabling persons who have occasion to deal with partnerships to ascertain and prove who the partners are. We consider that a register of partnerships would be desirable as part of such regulations. If these regulations were established, there would be no reason for continuing the distinction observed in practice in Scotland between merely descriptive or anonymous firms, and firms containing the names of partners.

Private partnership. Execution — How liability as partner ascertained.

In Scotland a creditor who has obtained a decree against a partnership may proceed with execution against any person he may think proper to assert to be a partner, without any previous proceeding of a judicial nature, with the view of establishing the fact that the person so proceeded against was a partner. In England and Ireland, in cases of ordinary partnerships, the occasion can never arise, as all the co-partners must be joined in the action in which the judgment is obtained, and partners not joined would be discharged of the debt by the judgment recovered; but where a judgment is obtained against a public officer of a company authorized to sue and be sued in its behalf, execution cannot be obtained against individual partners until authorized by a judicial proceeding in which the question whether the party proposed to be proceeded against be a partner or not is ascertained.

We think the Scottish law in this respect is unjust, and may lead to great oppression, and that it should be assimilated to the law of England and Ireland; but the separate judicial proceeding would be necessary only in cases where the names of the partners are not in the register proposed above, or are not included in the action and judgment against the company.

In England and Ireland, if a defendant sued by copartners has a valid defence against any one of them, it is available to him as a good defence against the action; but in Scotland a defence good against any one or more of the partners would not for that reason be available as a defence to an action by the company. We recommend that in this respect also the law of England and Ireland should be assimilated to the law of Scotland.

Private partnership. Whether ground of defence against one copartner available in action by all.

By the law of England and Ireland any one partner may, pending an action or suit by the copartners, gratuitously release the defendant from the whole cause of action or suit; but a partner has no such power in Scotland. We consider that the Scotch law in this respect should be extended to England and Ireland, for although it may be convenient, as a general rule, that each partner should have an authority to bind his copartners in all matters relating to the copartnership,—and this authority is also recognized in the law of Scotland,—yet we think that a partner ought not to have the power of defeating an action actually in dependence at the suit of the company.

Private partnership. Release by one copartner.

In England and Ireland it is a general rule that a partner cannot bind his copartners by an instrument under seal; but there is no such restriction in Scotland as to the form of the obligation; and we are of opinion that a partner ought to have power to bind his copartners, in transactions in the ordinary course of their business, in any form in which he can bind himself.

Private partnership. Power of one copartner to bind the others by seal.

In an action against copartners as such, in England and Ireland, a debt due from the plaintiff to one or some of the copartners cannot be set off against the claim of the plaintiff; and in like manner in an action against one or some of the copartners individually, a debt due from the plaintiff to all the copartners as such cannot be set off against the plaintiff's claim. But in both these instances there would be the right of set-off in Scotland.

Private partnership. Set off.

We prefer the Scotch law in the first of these two instances. We do not think it equitable that a pursuer should recover from a company without satisfying a debt which he may be owing to any of the copartners. Each partner is liable in solido for the whole debts of the partnership, and if a creditor of the company were to proceed against a partner individually, such partner would be entitled to set off any debt which might be owing to himself from the pursuer; and we see no reason why such debt should not also be set off when the demand is made against the partnership, if the individual partner to whom it is owing is willing that his debt should in this way be provided for, and this willingness may be reasonably and safely inferred when the demand of set-off is made by the company. We therefore recommend that the law of England and Ireland be assimilated to the law of Scotland in this respect.

But we think that the law of Scotland should be assimilated to the law of England and Ireland in regard to the second instance of set-off above mentioned, viz., that in an action against one or more members of a partnership individually the defendant or defendants should not be entitled to set off a debt due from the plaintiff to the partnership; for the partnership cannot be said to be before the Court or to express its willingness to the set-off merely because it is pleaded by their partner.

Private Partnership. Notice of retirement of dormant partner.

In England and Ireland a dormant partner retiring from a partnership may avoid liability for the subsequent engagements of his copartners, if he gives special notice of his retirement to those persons at that time having relations with the partnership who were aware of the dormant partner's connexion with it; but he need not give notice to any other persons, either specially or by public advertisement. In Scotland, on the other hand, a dormant partner is, in regard to liability for subsequent engagements, viewed in the same light as an ostensible partner; and therefore a dormant partner, on retiring from the partnership, must, in order to avoid liability for subsequent engagements, give special notice of his retirement to all persons at that time having relations with the partnership, whether they were or were not aware of the dormant partner's connexion with it; and he must also give public notice by advertisement.

We are of opinion that in this respect the law of Scotland should be assimilated to the law of England and Ireland.

2. *Joint Stock Companies.*

PARTNERSHIP.

Joint Stock Companies.

With regard to joint stock companies, as distinguished from private partnerships, considerable differences exist between the laws of the three kingdoms. These differences arise mainly from the circumstance that joint stock companies in Scotland may be left, and in general are left, to the operation of the common law, while in England and Ireland they are governed by special regulations introduced by sundry Acts of Parliament. We are not prepared to recommend assimilation of these laws, either by extending to Scotland the statutory regulations as they are now in force in England and Ireland—for we think these regulations are liable to many objections—nor by adopting in England and Ireland the Scotch law, which would have the effect of abolishing the statutory system; but we think that it would be advantageous if a complete system of registration, accompanied by proper regulations, were introduced for the whole United Kingdom for the government of joint stock companies.

VIII. LIMITATION AND PRESCRIPTION.

LIMITATION AND PRESCRIPTION.

The law of England and Ireland, and the law of Scotland, on this subject, differ widely from each other; yet there is, perhaps, no branch of mercantile law in regard to which uniformity is more desirable; for the conflict which exists gives rise to this special mischief, namely, that as prescription or limitation is a plea belonging to the remedy, and governed by the *lex fori*, a debtor, by removing from the jurisdiction to which he was subject at the time of the contract, has the power materially to prejudice the rights of his creditors.

Both in England and Ireland, and in Scotland, the law is founded on and regulated by statute, the principle of the Common Law being the same in all the countries, that a right never dies, and, consequently, that length of time is no bar to proceedings for making it effectual.

Period of limitation or prescription.

Mercantile transactions generally.

The period of limitation in England and Ireland applicable to simple contract debts is six years, and to debts on specialty twenty years, from the time the cause of action or suit accrues. If this period is suffered to expire, all remedy by action or suit to enforce payment ceases, but the debt is not extinguished.

(England.) Simple Contract.

The 21 James 1. c. 16. s. 3. (England) enacts, "That all actions of "trespass *quare clausum fregit*, all actions of trespass, detinue, action sur "trover, and replevin for taking away of goods and cattle, all actions "of account, and upon the case, other than such accounts as concern "the trade of merchandise between merchant and merchant, their factors "or servants, all actions of debt grounded upon any lending or contract, "*without speciality;* all actions of debt for arrearages of rent, and all actions "of assault, menace, battery, wounding, and imprisonment, or any of them, "which shall be sued or brought at any time after the end of this present "session of Parliament, shall be commenced and sued within the time and "limitation hereafter expressed, and not after, (that is to say,) the said "actions upon the case (other than for slander), and the said actions for account, "and the said actions for trespass, debt, detinue, and replevin for goods or "cattle, and the said action of trespass *quare clausum fregit*, within three years "next after the end of this present session of Parliament, or within six years "next after the cause of such actions or suit, and not after." By the English Act 4 Anne, c. 16. s. 17, it is enacted that "all suits and actions in the "Court of Admiralty for seamen's wages which shall become due after the said "first day of Trinity Term shall be commenced and sued within six years next "after the cause of such suits and actions shall accrue, and not after."

Specialty.

The 3d section of 3 & 4 Will. 4. c. 42. enacts, that all actions of debt for rent upon any indenture of demise, or covenant, or debt upon any bond or other specialty, and all actions of debt or scire facias upon any recognizance, shall be commenced and sued within twenty years after the cause of such actions or suits shall accrue, but not after.

This section also provides that all actions of debt upon any award where the submission is not by specialty, or for any fine due in respect of any copyhold estates, or for an escape, or for money levied on any scire facias, shall be commenced and sued within six years after the cause of such actions or suits shall accrue, and not after.

LIMITATION AND PRESCRIPTION. (Ireland.)

It is not necessary to advert to the various statutes which have been passed for Ireland on this subject, as they have all been consolidated in the recent "Act to amend the Procedure in the Superior Courts of Common Law in Ireland," 16 & 17 Vict. c. 113. The 20th section of that Act incorporates in substance the above-mentioned provisions of the 21 James 1. c. 16. and 3 & 4 Will. 4. c. 42. s. 3.

(Scotland.) Long Prescription.

Prescription was first introduced into the law of Scotland by the Act 1469, c. 28, which adopted the *præscriptio longissimi temporis* of the Roman law. The Act is in the following terms: "Item, as anent obligations, "that sall be followed in time cumming, except them that are depend and "in law before the making of this Act, it is advised that the partie to "quhome the obligation is maid, that has interest therein, sall follow the "said obligation within the space of fourtie zeirs, and take document thereupon; "and gif he does not, it shall be prescrived, and of nain availe the said "fourtie zears beand runnin and unpersewed be the pairtie."

Another Act was passed 1474, c. 54, explanatory of the former: "Item, "anentis the acte maid of before of prescription of obligations: It is ordained "to be understandin in this wise; that all auld obligations maid of before, "that is elder then the date of fourtie zeiris, not dependant in law in the time "of the making of the said actis, shall be prescribed, and of na strength; "and in likewise in time to cum, all obligations maid, or to be maid, that beis "not followed within fourtie zeiris, sall prescrive and be of nane availe."

These acts have a very extensive operation. They apply generally to all personal obligations, and their effect is to extinguish the obligation or right. Besides this long prescription there are several shorter prescriptions applicable to mercantile claims, the effect of which generally is, not to extinguish the obligation, nor even to cut off the remedy by action, but merely to affect the legal presumption as to the subsistence of the debt, and to change the mode of proof; so that claims which might be proved by parol or other legal evidence within the years of prescription, can only be established after the years have expired, by the writing or oath on reference of the debtor.

Triennial.

1st. Triennial Prescription. By the Act 1579, c. 83, it is enacted "That "all actions of debt for house mails (rents), men's ordinaries, servants fees, "merchants accounts, and other the like debts that are not founded upon "written obligations, be pursued within three years; otherwise the creditor "sall have nae action except he either prove by writ or by oath of his party."

Quinquennial.

2d. Quinquennial Prescription. This prescription was introduced by the Act 1669, c. 9, by which it is, among other things, enacted "That all bargains "concerning moveables or sums of money, proveable by witnesses, shall only "be proveable by writ or oath of party, if the same be not pursued for within "five years after the making of the bargain."

Sexennial.

3d. Sexennial Prescription. The statute which introduced this prescription into the law of Scotland is the 12 Geo. 3. c. 72. s. 37; whereby, on the preamble that "whereas the not limiting bills and promissory notes to a moderate "endurance in that part of Great Britain called Scotland has been found by "experience to be attended with great inconveniences, for remedy whereof" it is enacted "That no bill of exchange or promissory note executed after the "15th day of May 1772 shall be of force or effectual to produce any diligence "or action, in that part of Great Britain called Scotland, unless such diligence "shall be raised and executed, or action commenced thereon, within the "space of six years from and after the terms at which the sums in the said "bills or notes become exigible." It will be observed, that while the preamble points to a limitation of the endurance of the *bill*, the enacting part proceeds on the same footing as the English Statute of Limitations; viz. by barring the *remedy*. But by a provision in a subsequent clause (39) it is made "lawful and "competent at any time after the expiration of the said six years, in either "of the cases before mentioned, to prove the debts contained in the said bills "and promissory notes, and that the same are resting owing, by the oaths or "writs of the debtor."

The effect of this provision, as expounded by the decisions of the Courts in Scotland since the date of the Act, is to give to the sexennial prescription the same operation as the shorter prescriptions generally; *i. e.* to shift the onus probandi and to change the mode of proof.

LIMITATION AND PRESCRIPTION.

Vicennial.

4th. Vicennial Prescription. By another clause in the Act 1669, c. 9, it is provided that "Holograph missive letters and holograph bonds, and subscriptions in account books without witnesses, not being pursued for within twenty "years shall prescribe in all time thereafter, except the pursuer offer to "prove by the defender's oath the verity of the said holograph bonds and "letters, and subscriptions in the account books." The effect of this provision is to cut off all evidence of the genuineness of the subscription, excepting the defender's oath on the pursuer's reference.

We are of opinion that one uniform period of six years should be introduced into Scotland as the term of prescription or limitation applicable to all mercantile transactions which at present would fall under any of these Acts.

We are also of opinion that this prescription should have the same operation as the limitation of the law of England and Ireland to bar the remedy by action or suit after the lapse of the period of prescription.

Period of limitation or prescription.

Running accounts.

With regard to running accounts, as well where all the items are on one side as where the accounts are mutual, prescription commences by the law of Scotland from the date of the last item, provided the accounts are continuous, without the interval of three years between any two items; but according to the law of England and Ireland, in all accounts, with the exception mentioned in 21 James 1. c. 16. s. 3. [England] and 16 & 17 Vict. c. 113. s. 20. [Ireland], of "such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants," the remedy is barred as to every item that is more than six years old. Items within six years do not operate to take the previous portion of the account out of the Statute.

We recommend the repeal of the exception as to merchants accounts. According to the decisions of the courts in England, the exception has become practically inoperative, being limited to cases where an action of account or an action on the case for not accounting, would lie; and we are of opinion that the law of England and Ireland, as so amended, should be extended to Scotland, so that in current accounts all items more than six years old should be deemed to be prescribed.

We think also that the rule of the English and Irish law which enables a creditor, after the expiration of the period of limitation, to avail himself of any lien he may have on the property of the debtor, should be extended to Scotland.

The law of England and Ireland differs materially from the law of Scotland in regard to the manner in which claims may be taken out of the operation of the statutes of limitation or prescription. The rules on the subject have regard to three classes of cases:—

1st. Absence of the parties:

2nd. Disability by minority, coverture, imprisonment, or being non compos mentis:

3rd. Acknowledgment of the debt.

How barred. Absence.

I. Absence.—In Scotland prescription does not run against a creditor who is non valens agere cum effectu; but this non valentia is not inferred from the mere absence either of the creditor or of the debtor from the kingdom; though it has been doubted whether compulsory absence of the creditor, as by banishment or imprisonment abroad, should not be considered a non valentia agendi.

In England and Ireland this matter is regulated by statute. The 7th section of 21 James 1. c. 16. [England], provides that if any person or persons that is or shall be entitled to any of the causes of action enumerated be, at the time of any such cause of action accrued, beyond the seas, that then such person or persons shall be at liberty to bring the same actions within the period of limitation after their return from beyond seas.

The exception in favour of *creditors* beyond seas in the 21 James 1. c. 16. was, by the English Act 4 Anne, c. 16. s. 19, extended to cases where the *debtors* were beyond seas. By that section it is enacted, that if any person against whom any of the causes of action enumerated in the third section of the statute of James, lie, "be or shall be at the time of any such cause of suit or "action given or accrued, fallen or come, beyond the seas, that then such "person or persons who is or shall be entitled to any such suit or action, "shall be at liberty to bring the said actions against such person and persons "after their return from beyond the seas, so as they take the same after their "return from beyond the seas within such times as are respectively limited for

" the bringing of the said actions before by this Act, and by the said other " Act 21 James 1. c. 16."

Similar provisions are contained in the 4th section of the 3 & 4 Will. 4. c. 42.; and inasmuch as it had been held by the English courts that Ireland was to be deemed to be a place beyond seas, but that Scotland was not, to remedy the inconvenience of this distinction, it was enacted by 3 & 4 Will. 4. c. 42. s. 7., " that no part of the United Kingdom of Great Britain and Ireland, nor the " Islands of Man, Guernsey, Jersey, Alderney, and Sark, nor any islands " adjacent to any of them, being part of the dominions of His Majesty, " shall be deemed to be beyond the seas within the meaning of this Act or " the Act 21 James 1. c. 16." But, as the Act of 4 Anne, c. 16. is not mentioned, Ireland is still considered to be a place beyond the seas, within the meaning of the 4 Anne, c. 16. And this anomaly exists, viz., that Ireland is beyond seas when the question relates to the residence of the *debtor*, but is not beyond seas when the *creditor's* residence is in question.

By the 22d section of the 16 & 17 Vict. c. 113. (Ireland), it is enacted, that if a creditor is beyond seas, at the time the cause of action accrues, the period of limitation shall commence to run from the time of his return; and if the debtor is beyond seas at the like time, the creditor shall be at liberty to bring his action against him within the period of limitation after the return of the debtor from beyond the seas.

Absence from the realm of one of several joint creditors does not, by the law of England and Ireland, prevent the period of limitation from commencing; but the absence of one of several joint debtors does.

In the matter of absence from the realm, we are of opinion that the law of the United Kingdom should be placed on the following footing:—

1st. That the absence of a sole creditor, or of any, or any one, of several joint creditors from the United Kingdom, Isle of Man, and the Channel Islands, should not prevent the commencement or interrupt the currency of the period of limitation.

2d. That when any debtor, whether sole or joint, is within any part of the United Kingdom, Isle of Man, or Channel Islands, the period of limitation should commence and run as to him.

3d. That when any debtor, whether sole or joint, is out of the United Kingdom, Isle of Man, and the Channel Islands, when the right to sue accrues, the period of limitation should not commence as to him until his return.

4th. That any judgment recovered against his co-debtors should not be a bar to an action against the absent debtor when he returns to the realm.

How barred. Disability. Minority.

II. Disability.—In England, by 21 James 1. c. 16. s. 7. and 3 & 4 Will. 4. c. 42. s. 4., and in Ireland by 16 & 17 Vict. c. 113. s. 22., the period of limitation in the case of minors commences to run from their attaining majority. In Scotland minors are excepted from the operation of the long prescription, and of the quinquennial, sexennial, and vicennial prescriptions above referred to, but not from the triennial.

We recommend that the law of Scotland and the law of England and Ireland be assimilated, and that minors be protected against the operation of prescription in all cases, so that it should not run against them during their minority. But this rule should not apply to minors engaged in trade as to debts contracted to or by them in the course of such trade. In regard to such debts, minors should be deemed to be under no disability.

Coverture.

In England and Ireland the period of limitation does not run against married women during coverture. In Scotland, on the other hand, coverture does not prevent prescription from running against married women in questions as to third parties.

We abstain from expressing any opinion as to the merits of these conflicting rules; for it appears to us that the subject is so much interwoven with the general law of husband and wife that no alteration could be recommended on this difference, without considering the subject generally, and that matter is not before us.

Imprisonment.

In England the imprisonment of the creditor is not a disability in regard to actions of debt on specialties, or other actions of debt governed by the

LIMITATION AND PRESCRIPTION.

3d section of the 3 & 4 W. 4. c. 42.; but in regard to all other simple contract debts, falling under the 7th section of 21 Jac. 1. c. 16., where the creditor is imprisoned at the time the cause of action accrues, the period of limitation will run only from the time of his being set at large.

In Ireland imprisonment was a disability under the Irish Act of 10 Charles 1. session 2. c. 6. sec. 17., which introduced into Ireland the provisions of 21 James 1. c. 16.; but in the enumeration of disabilities in the 22d section of 16 & 17 Vict. c. 113. imprisonment has been omitted.

In Scotland imprisonment is insufficient to infer the plea of non valens agere, and forms no bar to the currency of the period of prescription; although, where it has taken place abroad, it has been doubted whether the law is not otherwise.

We are of opinion that the law of the three countries ought to be assimilated in this respect, so that imprisonment of the creditor or of the debtor, in the United Kingdom, Isle of Man, or Channel Islands, should not be a bar to the running of the period of limitation or prescription. Whatever might be the policy which dictated the introduction of this disability into the law of England and Ireland, we do not think that in modern times there is any reason for preserving it in such cases. The imprisonment of a party within the kingdom cannot be said to deprive him of the opportunity or means of communicating with his friends or advisers, or to present any material impediment to the vindication of his rights. But we are of opinion that if, at the time the cause of action accrues, the creditor is imprisoned beyond the above limits, it should be a disability, and that the period should commence running from the time of his being liberated.

How barred. Acknowledgment. Writing.

III. Acknowledgment.—By the 9 Geo. 4. c. 14. s. 1. (Lord Tenterden's Act), applicable to England and Ireland, it is enacted that, in actions of debt or upon the case grounded on any simple contract, no acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take the case out of the Statute of Limitations, "unless such acknowledgment or promise shall be made or contained by or "in some writing to be signed by the party chargeable thereby." This enactment is renewed for Ireland by the 24th section of 16 & 17 Vict. c. 113. The Statutes give no authority to an agent to make the acknowledgment. The writing must therefore be signed by the principal—"the party chargeable thereby." And such acknowledgment must be made to the creditor or his agent.

In Scotland a memorandum written by the debtor, though not signed by him, may in some cases be sufficient to bar prescription, and the writing of an agent duly authorized is deemed to be the principal's writing. Further, it is not indispensable that the acknowledgment should be made to the creditor or his agent.

We are of opinion that the laws of the three countries should be assimilated, not by the adoption of either law, but by an enactment for the United Kingdom to the effect that the acknowledgment of a debt by an agent duly authorized, although not authorized by writing, should have the same effect as the acknowledgment of the principal; that the acknowledgment should in all cases be in writing, and signed by the party, or by his agent duly authorized, and should be made to the creditor or his agent.

How barred. Acknowledgment. Promise.

It is a rule of law in England and Ireland that the writing, to have the effect of barring the limitation, must contain either a promise to pay the debt, or an acknowledgment from which such promise is to be inferred. If the writing be of this character it will revive the debt for a period of six years from the date of the writing, and that whether the writing was made within or after the original period of limitation.

In Scotland it is not essential that the acknowledgment should either expressly or by implication contain a promise to pay the debt. It is enough if it admits the constitution of the debt, and that it has not been paid or satisfied; but the acknowledgment is of no avail whatever if it be made within the original period of prescription, unless the writing is of such a nature as to be itself a voucher of debt.

We recommend that the English and Irish rule on both these points should be extended to Scotland. We think that the waiver of the exemption from liability by the lapse of time, conferred by statute, should in all cases be so distinct as either to express or imply a promise to pay; and we see no good

reason for holding that the acknowledgment, if otherwise sufficient, should be of no avail if made before the prescription has run,—that it should be effectual if made the day after the period of prescription, but worthless if made the day before.

How barred. Acknowledgement or payment by one of several co-contractors.

Again: in England and Ireland an acknowledgment made by one co-contractor does not preserve the claim as against other co-contractors, (9 Geo. 4. c. 14. s. 1. and 16 & 17 Vict. c. 113. s. 24); but part payment by one co-contractor keeps alive the claim against the others. In Scotland part payment has as little effect as an acknowledgment by one co-contractor or joint debtor, and does not keep alive the claim against the other contractors or debtors.

We recommend that the law for the United Kingdom should be, that neither acknowledgment nor part payment of any claim by one or more of several joint debtors or co-contractors should operate so as to keep in force the claim against any of the other joint debtors or co-contractors.

How barred. Acknowledgement. New period.

When limitation or prescription of a claim is barred by a written acknowledgment the consequence is very different in Scotland from what it is in England and Ireland. In England and Ireland the acknowledgment revives the debt, so that a new course of limitation of six years, or twenty years as the case may be, commences to run from the date of the acknowledgment. But in Scotland, as a general rule, the acknowledgment takes the case out of the shorter prescriptions altogether; and this is consistent with the principle on which the Acts are founded, viz., that they change the mode of proof. After a written acknowledgment, therefore, the debt, whether falling under the triennial or the quinquennial prescription, will endure for forty years, or for the period of prescription applicable to the document containing the acknowledgment, *e. g.*, if the document fall within the last clause of the Act 1669, c. 9. (supra, p. 22) the acknowledgment will endure for twenty years, and the mode of proof for the remainder of the forty years will be restricted to the debtor's oath on reference. An exception to this general rule, however, occurs in the case of the sexennial prescription, it being held by the Scotch courts, after much fluctuation of opinion, that an acknowledgment of a debt contained in a bill suffers the prescription of six years proper to the bill itself.

We are of opinion that the law of Scotland should in this matter be assimilated to the law of England and Ireland, so that the same prescription or limitation should be applicable to the acknowledgment of a debt as to the debt itself before acknowledgment.

These alterations in the law of Scotland would supersede all the shorter prescriptions to which we have adverted, and would likewise include a numerous class of cases at present falling under the long prescription of forty years only, and to this extent the Statutes 1469, c. 29, and 1474, c. 55, would be altered. In so far as these Acts are not thereby altered, we are of opinion that, in regard to personal rights, the period of prescription should be reduced from forty to twenty years.

We have not included among the Scottish prescriptions which we propose should be assimilated the septennial limitation of cautionary obligations, because this limitation is not properly of a *mercantile* character. It was introduced by the Act 1695, c. 5., in order to prevent "the great hurt and prejudice "that have befallen many persons and families, and ofttimes to their utter "ruin and undoing, by men's facility to engage as cautioners for others who, "afterwards failing, have left a growing burden on the cautioners without "relief." The Act provides, "that no man binding and engaging for hereafter "for and with another, conjunctly and severally, in any bond or contracts "for sums of money, shall be bound for the said sums for longer than "seven years after the date of the bond; but that from and after the said "seven years the said cautioner shall be *eo ipso* free of his caution, and that "whoever is bound for another, either as express cautioner or as principal or "co-principal, shall be understood to be a cautioner to have the benefit of "this Act, providing that he have either clause of relief in the bond, or a "bond of relief apart, intimated personally to the creditor at his receiving of "the bond."

LIMITATION AND PRESCRIPTION.

The operation of this prescription is very limited, as it applies only to cautioners engaging *expressly* as such, or to co-obligants having a bond of relief from the principal intimated at the time of the transaction to the creditor. It is excluded where the cautioner and principal debtor are bound together as full debtors; and if there be a bond of relief, it is necessary that at the time of the transaction it should be formally intimated to the creditor.

The Act has been held not to apply,—

1st. To co-obligants stipulating by a clause of relief their *mutual* remedies.

2d. To a bond of corroboration for a debt *already* constituted.

3d. To an engagement, by letter or otherwise, to pay, or see paid, a sum already lent.

4th. To a letter of guarantee in a mercantile transaction.

We humbly offer to Your Majesty's gracious consideration this our Final Report.

T. B. CUSACK SMITH.* (L.S.)
C. CRESSWELL. (L.S.)
JOHN MARSHALL. (L.S.)
G. BRAMWELL. (L.S.)
JA^{S}. ANDERSON.† (L.S.)
KIRKMAN D. HODGSON. (L.S.)
THO^{S}. BAZLEY. (L.S.)
RO: SLATER. (L.S.)

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* The Master of the Rolls in Ireland would not concur in the recommendation in this Report with respect to the introduction of the Scotch law of summary diligence into England and Ireland, to enforce payment of bills of exchange and promissory notes, unless some provision was also introduced to prevent fraudulent preference.

Under the proposed alteration of the law of England and Ireland, bills of exchange and promissory notes would have much the effect of warrants of attorney, and it would, in the opinion of the Master of the Rolls in Ireland, be most objectionable to introduce the Scotch law of summary diligence into England or Ireland without some provision to prevent fraudulent preference.

Neither of the Bills before Parliament contains provisions to prevent such preference.

The petition from Birmingham to Parliament on the subject is, in the opinion of the Master of the Rolls in Ireland, very deserving of consideration.

† Mr. Anderson dissents from so much of the Report as, under the head of PRINCIPAL DEBTOR AND SURETY, recommends that the maxim that prevails in England and Ireland, "Ex nudo pacto non oritur actio," should not be interfered with, and that the rule that some consideration is essential to a valid contract should be preserved in those parts of the United Kingdom; and also from so much of the Report as, under the same head, recommends that the rule of the English and Irish law, that an unqualified discharge by the creditor of one of several sureties operates as a discharge of all of them, should be extended to Scotland, being of opinion that the rule of the law of Scotland, that an unqualified discharge by the creditor of one of several sureties operates as a discharge of the co-sureties only to the extent to which the surety discharged is bound to contribute to the relief of the others, ought to be extended to England and Ireland. (See Additional Note, p. 27.)

ADDITIONAL NOTE BY MR. ANDERSON.

I am of opinion that the Mercantile Laws of the United Kingdom may be advantageously assimilated on the following points, in addition to those referred to in the Report, viz:—

(Debtor and Creditor.)

1st. As to specialty debts and simple contract debts. In Scotland no distinction exists between them. In England and Ireland specialties create a more stringent obligation, and carry with them privileges which are not attached to simple contracts or instruments not under seal.

2nd. As to the consideration necessary to the validity of obligations. By the law of England and Ireland, simple contracts or obligations not under seal are invalid, unless supported by some good or valuable consideration It is otherwise with deeds under seal. By the law of Scotland, promises require no consideration to give them validity.

3d. As to the effect of judgments. In Scotland judgments *in personam* merely constitute or ascertain the debt, and provide the creditor with a warrant for diligence, or execution to enforce payment. In England and Ireland they have this further effect, that they extinguish the cause of action, making the debt a debt of record, whereby it has priority over specialties as well as simple contracts, and merging the previous liabilities in the judgment.

4th. As to the effect of releasing one or more co-debtors. In England and Ireland it discharges absolutely all the others. In Scotland it discharges them only to the extent to which they are entitled to be relieved by the co-debtor released.

5th As to the transmissibility of debts or other choses in action. In England and Ireland they are not assignable at law. In Scotland they are, and the assignee obtains by the assignation, followed by intimation or notice to the debtor, as complete a legal title to the debt assigned as he would have to goods or chattels transferred and delivered to him.

(Sale.)

6th. As to the right of a first and second buyer, where goods undelivered have been sold a second time by the seller. In England and Ireland the first buyer has a remedy for the goods or their value against the second buyer, unless the second sale take place in market overt. In Scotland the first buyer has no such remedy.

On each of these points, I am of opinion that the law of England and Ireland should be assimilated to the law of Scotland. The only hesitation I feel arises from the circumstance that the majority of the Commissioners were of a different opinion, considering that no assimilation should be recommended on any of these points. The questions indeed are of very extensive operation, and the alterations I suggest might affect other branches of the law which are not embraced by our commission. But still I do not anticipate inconvenience to any branch of the law from the assimilation proposed. On the contrary, I have a very decided opinion, that such assimilation would greatly simplify and improve the Mercantile Law, and every other branch of the law which might be affected. Indeed the English rules on the first five points (debtor and creditor) appear to me to be great blemishes on the jurisprudence of this country.

(Principal Debtor and Surety.)

7th. As to the discharge of one of several sureties by the creditor. By the law of Scotland, such a discharge operates to release the co-sureties only to the extent to which the surety discharged was bound to contribute to the relief of the others. In England and Ireland it operates as an absolute discharge of all the co-sureties.

As mentioned in the foot note to the Report, I differ from the majority of the Commissioners, who have recommended the introduction of the English and Irish rule into Scotland. On the contrary, I think that the Scotch rule should be introduced into England and Ireland.

The grounds on which my opinion is rested on the above seven points may be shortly stated.

I. *All distinction between debts or obligations by specialty and by simple contract ought to be abolished.*

The most material of these distinctions, according to the law of England and Ireland, are,—

(1st.) That whereas obligations by simple contract require some consideration to support them, obligations under seal require none, nor can they be impeached on the allegation of want of consideration.

(2d.) That obligations under seal are of a higher degree,—entitled to priority in ranking on the assets of the debtor, over obligations by simple contract. The inconvenience of this rule has led to its exclusion in Bankruptcy, in which case specialty and simple contract creditors are ranked pari passu. And so also are they, where the assets to be administered are equitable as contra-distinguished from legal assets. But subject to these exceptions, obligations under seal are of a superior order and quality to those not under seal, and in an administration suit may sweep away the assets of the debtor, to the entire exclusion of his simple-contract creditors.

(3d.) That the period of limitation of specialty debts is twenty years, while that of simple contract debts is six.

As mercantile debts are seldom constituted by specialty, it is obvious that this rule of the law of England and Ireland must be detrimental to proper mercantile creditors.

I have never been able to discover any intelligible reason for giving these privileges to obligations under seal; I certainly cannot appreciate the ground usually urged. The reason generally assigned is, that an instrument under seal is of a more solemn and deliberate character than a simple contract. Thus in Morley *v.* Boothby, 3 Bing. 111, it was said by Best, C. J. "The common law protected men against improvident contracts. If they "bound themselves by *deed*, it was considered that they must have determined upon "what they were about to do before they made *so solemn an engagement;* and there- "fore it was not necessary to the validity of the instrument that any consideration "should appear on it," &c.

This reasoning appears to me to be without foundation in point of substance and fact; for the sealing of the instrument, which is the essence of the deed, or specialty, is the most loose act, and the least indicative of deliberation, that can well be imagined.

I venture to think, very confidently, that if the matter were *res nova*, no one would suggest that the law should be placed on the footing on which it now stands in England and Ireland, and no one has proposed that it should be extended to Scotland. Sealing was resorted to in rude times when writing was a rare accomplishment. The obligor set his own seal to his written obligation in order to authenticate it, in order merely to denote that it was his instrument, and he did so because in the general case he could not annex his signature, being unable to write. The creditor or obligee was entitled to enforce the obligation, on proving the identity of the seal, and the obligor was supposed to be protected against fraud by having his seal to be compared with the impression on the instrument. *Sealing*, as a solemnity, belonged to the same category of formalities as *indenting*, which gave name to the "indenture," from the ancient practice of writing on one sheet of parchment the different parts of a deed where there were more parties than one, and cutting them off in an indented or notched line, by which means the different parts might be compared together by being fitted.

But sealing was even more unsatisfactory as a safeguard; for seals might be imitated, or they might be lost, or stolen, or carelessly kept, or they might be used after the death of the owner. These mischiefs appear to have been felt from a very early period of the law, for we find rules laid down to guard against them. If the obligee proved the seal to be the ostensible obligor's, or to have been acknowledged by him as such, he was entitled to enforce the obligation. It then became immaterial whether the seal on the instrument was de facto the grantor's own proper seal or not. It was enough that he had acknowledged it to be his seal. He was not allowed afterwards to dispute the deed, or to aver that the seal had not been affixed to it, either by himself, or with his consent, but he was on acknowledgment or proof of the seal, bound by the instrument in all respects. Glanville says (Glanville, b. 10, s. 12,—Beames's translation, p. 262), "when he has publicly in "court acknowledged the seal to be his own, he is bound to warrant the terms of the "charter (deed, *carta*), and in all respects to observe the compact expressed in the charter "(deed) as contained in it without question, and to impute it to his own indiscretion "if he incur any loss by negligently preserving his own seal." If the party denied the seal as well as the instrument to be his, the seal might be proved by witnesses or by comparison of other seals, and when proved the same effect was given to it as in the case of acknowledgment, i. e., the instrument was thereby established against the party.

The same rule appears to have been in observance in the law of Scotland. The parallel passage in the Regiam Majestatem, b. 3, c. 8., is expressed in nearly the same words as that in Glanville; and whatever question may exist as to the genuineness of this work, or as to its really being, as it purports to be, a collection of the "Auld laws of Scotland," there seems no reason to doubt that at a later period it was adopted by the Scottish Legislature,* and recognized as one of the "Buikes of the Law."

In Scotland, partly by the effect of statutory provisions, and partly by custom, sealing instruments fell gradually into disuse, and the subscription of the maker or grantor was substituted. So early as 1540 an Act was passed by the Scottish Parliament, 1540, c. 117.,

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* That the Regiam Majestatem was recognized as law in Scotland in the 15th century, appears obvious from the following Statutes:—

1425. c. 48. Item, it is ordained be the King, be consent and deliverance of the three estaitse, that all and sindrie the King's lieges of the realme live and be governed under the King's lawis and statutes of the realme allanerlie, and under na particular lawes, nor special priviledge, nor be na lawes of uther countries nor realmes.

1425. s. 54. Item, it is statute and ordained, that sex wise men and discreete, of ilk ane of the three estaites, quhilk knawis the lawes best, sall be chosen (sen fraude and guile, aucht to help na man), that sall see and examine *the buikes of the law*, that is to say, *Regiam Majestatem*, and *Quoniam attachiamenta*, and mend the lawes that neids mendement.

1487. c. 115. Item, the three haill estates hes committed full power of the haill Parliament to the persones under written, to advise, commoun, and refer againe to the next Parliament or generall Councell, anent the reduction of the King's laws, *Regiam Majestatem*, actes, statutes, and uther buikes to be put in ane volume, and to be authorized, and the lave (rest) to be destroyed, viz., four for ilk one of the three estaites; and the prelates ar accorded to make the coaste of their clerkes, and the barronnes the expenses of their persons, and the burrowes of their Commissioners.

by which it was "statute and ordained, that because mennis seales may of adventure be "tint (lost), quhairthrou great hurt may be genered to them that awe the samen; and "that mennis seales may be feinzied, or put to writings after their decease, in hurte "and prejudice of our Soverain Lord's liegis; that, therefore, na faith be gevin in time "cumming, to ony obligation, band, or uther writing under ane seale, *without the sub-*"*scription of him that awe the samin*, and witnesse, or else gif the partie cannot write, "with the subscriptioun of ane notar thereto."

By the Act 1579, c. 80. it was enacted, that contracts and obligations of great importance should be subscribed and sealed by the parties if they could subscribe, if not, by notaries.

And by the Act 1584, c. 4. it was provided, that "inasmuch as registration was a "more solemn act than sealing instruments, the non-sealing of the same shall be nae "exception against the validity of the said writs, being subscribed by the parties and "agreed on to be registered." After this Act sealing went into desuetude generally, and in the next Act that was passed for regulating the execution of instruments, 1681, c. 5, it is not even referred to.

The law of England took a different direction from the law of Scotland. The instrument, indeed, was no longer impressed with any distinguishing seal to mark its authenticity, and witnesses were admitted to prove that the maker acknowledged the seal to be his. This rendered it immaterial whether it was so or not, or what the impression on the writing was, or on what substance it was imposed. It might be wax, or wafer, or any other material; and where there were more parties than one to the instrument, it was not necessary that each should have a separate distinctive seal, but one might suffice for all the parties however numerous they might be. The law is thus stated in Sheppard's Touchstone, vol. I. p. 57:—"If another man seal a deed of mine, and I "take it up after it is sealed, and deliver it as my deed, this is said to be a good agree-"ment to and allowance of the sealing, and so a good deed; and if the party seal the "deed with any seal besides his own, or with a stick, or any such like thing which doth "make a print, it is good. And although it be a corporation that doth make the deed, "yet they may seal with any other seal besides their common seal, and the deed never "the worse: and if there be twenty to seal one deed, and they seal all upon one piece "of wax, and there is one seal, yet, if they make distinct and several prints, this is a "very sufficient sealing, and the deed is good enough." And it has been held that a seal put on a writing by one of two partners, by the authority of the other, was a sealed deed for both, Ball v. Dunsterville, 4 T. R., 313, on the authority of Lord Lovelace's case, where it was said, that "if one of the officers of the forest put one seal to the rolls, by "assent of all the verderers and other officers, it is as good as if every one had put his "several seal, as in case divers men enter into an obligation, and they all consent and "set but one seal to it, it is a good obligation of them all."—W. Jones, 268.

It is well known that in practice deeds are almost never sealed by the parties themselves, or even in their presence, or by their direction; but a wafer or stamp is usually affixed by the stationer's clerk at the time of making the engrossment. All this tends to show how little solemnity there is in the mere sealing of deeds or specialties. The only solemn and deliberate act done by the maker is the signature; and, strange as it may seem, the better opinion is, that the signature is superfluous, and that without it the instrument would, notwithstanding, be equally effectual as a deed. It was not until the Statute of Frauds, 29 Car. II. c. 3., was passed, in the year 1676, that any legislative provision was made for the signature of writings. But it has been considered that that Statute has no reference to deeds or instruments under seal, although the authorities are very much divided in opinion upon the point. This unsatisfactory state of the law will appear from the judgment of Lord Denman in a recent case, Cooch *v.* Goodman, 2 Q. B. 597, where the point arose whether the Statute of Frauds applied to a deed under seal not signed by the maker. There was also an objection that the instrument was not under the seal of the party, which prevailed, and therefore it became unnecessary to determine the question as to signature. But on this point Lord Denman said, "Mr. Justice Blackstone, in "his Commentaries, vol. 2. p. 306, lays it down that the Statute of Frauds has restored "the old Saxon form of signing, and superadded it to sealing and delivery in the case of "a deed. Mr. Preston, on the other hand, in his edition of Sheppard's Touchstone, p. 56 (b), "treats this passage in Blackstone as a mistake, from not attending to the words of the "Statute, and holds it clear that no signature is necessary in the case of a deed. It is "curious that the question should now, for the first time, have arisen in a court of law, "and perhaps as curious that it is not necessary now to determine it; for although the "plea negatives signature only, and not sealing or delivery, by the plaintiffs and the "deceased, yet it appears by the indenture, as set out on oyer, and thereby become part "of the declaration, that it was not sealed by the plaintiffs."

Since this case the Court of Common Pleas has held that a deed does not require signature, Aveline v. Whisson, 4 M. & G., 801.

II. *Obligations, though not under seal, should be valid and effectual against the obligor without any good or valuable consideration.*

The civil and canon laws had opposite rules on this subject.

The rule of the canon law was *omne verbum de ore fideli cadit in debitum.*

The civil law rule was *ex nudo pacto non oritur actio.*

The law of Scotland is founded on the rule of the canon law. The law of England and Ireland on that of the civil.

By the law of England and Ireland an obligation when not granted under seal is invalid, unless the obligee establishes "some good or valuable consideration" for the promise. The obligee must either have suffered some loss or inconvenience, or the obligor obtained some benefit or advantage, for entering into the obligation. And it must be present or future. A past consideration, i.e., a benefit already enjoyed or an inconvenience already suffered, will not support a promise.

This rule of law has been justified on such grounds as that it protects thoughtless persons from improvident engagements (per Best, C. J., in Morley v. Boothby, *ubi ante*), —that the "enforcement of such promises by law, however plausibly reconciled by the "desire to effect all conscientious engagements, might be attended with mischievous "consequences to society, one of which would be the preference of voluntary under- "takings to claims for just debts. Suits would thereby be multiplied, and voluntary "(gratuitous) undertakings would also be multiplied to the prejudice of real creditors. "The temptations of executors would be much increased by the prevalence of such "a doctrine, and the faithful discharge of their duty be rendered more difficult."— Dicente Denman, C. J., in Eastwood v. Kenyon, 11 Ad. and E. 450.

If this reasoning were sound it is difficult to see why it should not be applicable to engagements under seal, for the same "consequences to society" must follow whether the wafer or wax be on the paper or not. And further, if the supposed mischiefs were to be prevented or cured by requiring a consideration, one would think that such consideration ought to be adequate, or in some degree at least commensurate, with the magnitude of the obligation undertaken or promise made. Adequacy, however, is perfectly unnecessary. The consideration must indeed be of some, but it may be of any value, however small or disproportionate. A surety, for example, who gives a written guarantee for the debt of another, incurs no obligation; but the guarantee is binding, if, as a consideration for it, he stipulates for and receives from his creditor a stick of sealing wax or a sheet of letter paper, whatever may be the amount of the sum guaranteed, this being an illustration of "some benefit conferred" on the party making the promise. So the guarantee would be effectual if the consideration was, that the creditor should carry a letter for the surety across the street to the post-office, for this would be "some inconvenience suffered" by the party to whom the promise is made.

Take another instance. A party gives a creditor a written guarantee without consideration, and consequently invalid, but if he afterwards requests the creditor to deliver him back this guarantee in exchange for another in precisely the same terms, this last guarantee is valid and effectual. Why is it so? Because the piece of paper on which the first was written was of "some" value as paper, and consequently when it was given up a good consideration for the guarantee passed! This actually occurred in Brooks v. Haigh, 10 Ad. and E., 344. The court (Exchequer Chamber) there held "that the actual sur- "render of the paper by defendant was a sufficient consideration, without reference to "its contents."

Another illustration may be given. If a creditor promises to accept in satisfaction, a sum of money less than the full amount of a liquidated or ascertained debt, this is nudum pactum, and not binding on him; and he may afterwards sue for the whole debt, or if the sum he promised to take for the whole was paid to him, he may sue for the balance. In Fitch v. Sutton, 5 East, 231, it was observed by Lord Ellenborough, "It "cannot be pretended that a receipt of part only, though expressed to be in full of all "demands, must have the same operation as a release (under seal). It is impossible to "contend that acceptance of 17*l.* 10*s.* is an extinguishment of a debt of 50*l.* There must "be some consideration for the relinquishment of the residue, something collateral to "show a possibility of benefit to the party relinquishing his further claim, otherwise the "agreement is nudum pactum."

But so little of substance is there in this rule, that if the creditor accepts *goods* in satisfaction to the value of 17*l.*, or 17 pence even, it would extinguish a debt of 50*l.* or 50,000*l.* So, again, if he takes a *bill of exchange* for 5*l.*, in satisfaction of an ascertained debt of 50,000*l.*, it would be effectual as an extinction. If, however, he accepted 49,995*l.* in cash in satisfaction, he might keep the money, disregard the terms on which it was given, and recover the remaining 5*l.* by action. This anomaly of the law of England is brought out by Mr. Baron Alderson in Sibree v. Tripp, 15 M. & W. 37. The question was, whether the acceptance of negotiable securities, in satisfaction of a debt of a greater amount, was effectual to release the debt? The learned Baron observed, "I consider "this as a liquidated demand. Then is there a good answer to it. The suggested "answer is, that the defendant gave certain promissory notes of a smaller amount, "and the plaintiff accepted them in satisfaction and discharge of that demand. It is "undoubtedly true, that payment of a portion of a liquidated demand, in the same "manner as the whole liquidated demand ought to be paid, is *payment* only in part; "because it is not one bargain, but two, namely, payment of part, and an agreement, "without consideration, to give up the residue. The courts might very well have "held the contrary, and have left the matter to the agreement of the parties; but "undoubtedly the law is so settled. But if you substitute for a sum of money a piece "of paper or a stick of sealing wax, it is different, and the bargain may be carried out "in its full integrity. A man may give in satisfaction of a debt of 100*l.*, a horse of the "value of 5*l.* but not 5*l* Again, if the time or place of payment be different, the one "sum may be a satisfaction of the other."

Lord Mansfield, of whom it has been justly said that he was the great founder of the Mercantile Law of England,* evidently did not approve of the doctrine of nudum pactum, and he appears to have been of opinion that the objection of want of consideration did not apply where the promise was in writing, or in commercial cases among merchants.

In Pillans v. Van Mierop, 3. Bur., 1669, "Lord Mansfield asked if any case could be "found where the undertaking holden to be *nudum pactum* was in writing.—Serjeant "Davy: 'It was anciently doubted whether a *written* acceptance of a bill of exchange "was binding, for want of a consideration.' It is so said, somewhere in *Lutwyche*.— "Lord Mansfield: This is a matter of great consequence to trade and commerce, in "every light. If there be no fraud, it is a mere question of law. The law of merchants "and the law of the land is the same. A witness cannot be admitted to prove the law "of merchants. We must consider it as a point of law. A *nudum pactum* does not "exist in the usage and law of merchants. I take it that the ancient notion about the "want of consideration was for the sake of evidence only; for when it is reduced into "writing, as in covenants, specialties, bonds, &c., there was no objection to the want of "consideration. And the Statute of Frauds proceeded upon the same principle. In "commercial cases amongst merchants, the want of consideration is not an objection."

Numerous subsequent cases, however, have established that the doctrine is applicable to written promises when not under seal, as well as to verbal ones; and that commercial cases form no exception. In Rann v. Hughes, 7. T. R., 350, n. (a.), which was a writ of error to the House of Lords from the Exchequer Chamber, the Lord Chief Baron Skynner, in delivering the opinion of the judges before whom the cause was heard, intimated that Pillans v. Van Mierop was erroneously decided, so far as it went on the doctrine of pactum nudum. And in reference to the distinction of contracts in writing, and by word of mouth, he said, "All contracts are, by the laws of England, distinguished "into agreements by specialty, and agreements by parol; nor is there any such third "class, as some of the counsel have endeavoured to maintain, as contracts in writing; if "they be merely written, and not specialties, they are parol, and a consideration must "be proved."

III. (1st) *A judgment against one or more of several joint debtors ought not to be a bar to an action against the others for recovery of the joint debt.*

The opposite rule in England and Ireland proceeds on the footing that there is only one cause of action for a joint debt, and that such cause of action is merged in and extinguished by the judgment. This rule obtains as well in regard to joint contracts as to joint torts. Mr. Baron Parke, in King v. Hoare, 13 M. & W. 504, observes on this subject, "If there be "a breach of contract or wrong done, or any other cause of action by one against another, "and judgment be recovered in a court of record, the judgment is a bar to the original "cause of action, because it is thereby reduced to a certainty, and the object of the suit "attained, so far at it can be at that stage, and it would be useless and vexatious to "subject the defendant to another suit for the purpose of obtaining the same result; "hence the legal maxim, 'transit in rem judicatam,'—the cause of action is changed into "matter of record, which is of a higher nature, and the inferior remedy is merged in "the higher. This appears to be equally true where there is *one cause of action*, "whether it be against a single person or many. The judgment of a court of record "changes the nature of that cause of action, and prevents its being the subject of "another; suit and the cause of action, being single, cannot afterwards be divided into "two. Thus it has been held, that if two commit a joint tort, the judgment against "one is of itself, without execution, a sufficient bar to an action against the other for "the same cause; *Brown* v. *Wootton*. And though, in the report in Yelverton, expres- "sions are used which at first sight appear to make a distinction between actions for "unliquidated damages and debts; yet, upon a comparison of all the reports, it seems "clear that the true ground of the decision was not the circumstance of the damages "being unliquidated. Chief Justice *Popham* states the true ground; he says, 'If one "'hath judgment to recover in trespass against *one*, and damages are certain, (that is, "'converted into certainty by the judgment,) although he be not satisfied, yet he shall "'not have a new action for this trespass. By the same reason, e contrà, if one hath "'cause of action against two, and obtain judgment against one, he shall not have "'remedy against the other; and the difference betwixt this case and the case of debt "'and obligation against two is, because there every of them is chargeable and liable "'to the entire debt; and therefore a recovery against one is no bar against the other "'until satisfaction.' And it is quite clear that the Chief Justice was referring to the "case of a joint and *several* obligation, both from the argument of the counsel, as reported "in Cro. Jac., and the statement of the case in Yelverton. We do not think that the "case of a *joint contract* can, in this respect, be distinguished from a *joint tort*. There "is but one cause of action in each case; the party injured may sue all the joint tort "feasors or contractors, or he may sue one, subject to the right of pleading in abate- "ment in the one case and not in the other, but for the purpose of this decision they

* Of Lord Mansfield Mr. Justice Buller remarks (Lickbarrow v. Mason, 2 T. R., 63):—"We all "know the great study has been to find out some certain general principles, which shall be known "to all mankind, not only to rule the particular case then under consideration, but to serve as a "guide for the future. Most of us have heard those principles stated, reasoned upon, enlarged, "and explained, till we have been lost in admiration at the strength and stretch of the human "understanding. And I should be very sorry to find myself under a necessity of differing from "any case which has been decided by Lord Mansfield, who may be truly said to be the founder of "the commercial law of this country.

" stand on the same footing. Whether the action is brought against one or two, it is " *for the same cause of action.*" The rule appears to me to be very inconvenient, and in many respects inequitable. It may often be difficult or impracticable to bring all the joint debtors before the court; yet, as the law now stands, a creditor cannot proceed against such of the joint debtors as are convenable without forfeiting his claim against the others. I cannot think it right that these joint debtors should obtain the benefit of being released from the demand merely because others jointly liable with them were proceeded against by the creditor. If these proceedings had any effect it would be a favourable one for the joint debtors omitted, because it might produce payment or satisfaction.

(2d). *A judgment ought not to give priority.*

In England and Ireland, in the administration of the estates of deceased debtors, judgment creditors are ranked before specialty and simple contract creditors. In Scotland all are ranked pari passu. This equality appears to me more equitable; but the hardship of the conflicting rules is still more apparent when English or Irish and Scotch creditors, having judgments from the Courts of their respective countries, claim on the assets. If the place of administration is Scotland, English, Irish, and Scotch judgment creditors would all be ranked equally and rateably; but if the place of administration was England or Ireland, the English or Irish creditors would have priority over the Scotch, for by the law of England and Ireland a foreign judgment (and in this respect Scotland is a foreign country) is considered as a simple contract.

I exclude the case of attachment, diligence, or execution on the judgment, and also the case where the judgment, if it be English or Irish, becomes, when registered, a charge on real estate. In this last respect I think the law of Scotland may be very much simplified and improved by assimilation to the law of England and Ireland. Before a judgment can be obtained to affect real estate a fresh action has to be commenced on the judgment or decree of constitution, called an action of adjudication, which may proceed through the usual course of litigation to decree.

IV.—*Debts or other choses in action ought to be assignable at law.*

It is an ancient rule of the common law in England and Ireland that no debt or right or thing in action can be granted or transferred by assignment to third persons. This rule has no doubt been ameliorated in modern times. Thus, the assignment of a chose in action is recognized in equity; and even at common law the assignee has a right to sue in name of the *assignor*. Bills of exchange and promissory notes, though in their nature choses in action, are exempt from the rule, and in bankruptcy the bankrupt's choses in action are vested by the Statute 12 & 13 Vict. c. 106. s. 141. in the assignees. But these are only exceptions from or alleviations of the rule which otherwise still remains in force, and frequently occasions much inconvenience and expense.

The reason for the rule was, that it was thought it would encourage litigation if a person were permitted to make over to another his right of going to law. This subject is thus expounded by Mr. Justice Blackstone:—" Property in action is where a man hath " not the occupation, but barely a right to occupy the thing in question, the possession " whereof may, however, be recovered by a suit or action at law, from whence the thing " so recoverable is called a thing or chose in action. Thus money due on a bond is a " chose in action, for a property in the debt vests at the time of forfeiture mentioned in " the obligation; but there is no possession till recovered by course of law. If a man " promises or covenants with me to do any act, and fails in it, whereby I suffer damage, " the recompense for this damage is a chose in action. While the thing or its equivalent " remains in suspense, and the injured party has only the right, and not the occupation, " it is called a chose in action, being a thing rather *in potentia* than *in esse*, though the " owner may have as absolute a property of such thing in action as of things in posses- " sion."—Blackstone, b. 2. c. 25. s. 3.

" Property in action merely, and recoverable by suit at law, could not be transferred to " another person by the strict rules of the common law; for the chose in action could not " be assigned or granted over, because it was thought to be a great encouragement to " litigiousness if a man were allowed to make over to a stranger his right of going " to law. But this nicety is now disregarded, though, in compliance with the ancient " principle, the form of assigning a chose in action is in the nature of a declaration " of trust, and an agreement to permit the assignee to make use of the name of the " assignor in order to recover the possession; and therefore, when in common acceptation " a debt or bond is said to be assigned over, it must still be sued in the original credi- " tor's name, the person to whom it is transferred being rather an attorney than an " assignee; but the King is an exception to this rule, for he might always either grant " or receive a chose in action by assignment; and our courts of equity, considering that in " a commercial country almost all personal property must necessarily lie in contract, will " protect the assignment of a chose in action as much as the law will that of a chose " in possession."—Blackstone, b. 2. c. 30. s. 9.

It is high time that a rule founded on a reason disavowed should be abolished.

V. *A discharge of one or more co-obligors ought not to discharge the other co-obligors to a greater extent than the claim of relief or exoneration which they had against the obligor or obligors discharged.*

When several obligors are bound, either jointly or jointly and severally, for a debt, the plain justice of the case as among all parties is, that each should at the time the debt

becomes payable contribute his proportion, and so provide a fund to satisfy the creditor. And on each so contributing his proportion, he ought to be discharged.

If one or more fail to contribute, why should they reap any benefit from those who pay their proportions, and are discharged if the creditor thinks proper to accept such payment? The payment does not prejudice, but on the contrary benefits, those who do do not pay, by reducing the amount of the debt for which they are liable *in solidum.*

And so if a creditor discharges a co-obligor without receiving from him the full amount of his proportion, justice is done to all concerned, if, in a question with the other co-obligors, the creditor is made answerable for the full measure of the proportionate liability of the obligor he has discharged. The transaction between the creditor and the obligor discharged does not prejudice, but benefits, the other obligors, because the creditor is bound to answer to the extent of the discharged obligor's liability, and the co-obligors have the same advantage as if the obligor had contributed the full amount of his proportion.

This appears to me by far the most equitable and expedient rule. A creditor will generally find it for his advantage not to insist on the full measure of his rights against each debtor; and the debtors themselves, or their relations, will make an effort to pay up their proportion, provided they obtain their discharge.

The law of England and Ireland, however, is not rested on views of practical justice. It is built on the foundation of some ancient maxims introduced when the commerce of the country was insignificant. It was considered that the discharge of a debtor was satisfaction of the debt or cause of action, and all originally bound were necessarily free. Hence, if a creditor named one of several debtors his executor, inasmuch as this discharged the executor, it operated to satisfy the debt and discharge all co-obligors. So if a creditor took the person of one of several debtors in execution, this was satisfaction as to all. These refinements were first established in the case of debtors bound "jointly," but they were afterwards extended to "joint and several" obligations. In the year book Mich. 21 Edw. IV. 81 B. pl. 33. (1483), there is the following note of a case:—"Copley "asked of Bryan (Chief Justice), if three be bound to a man jointly and severally, and "the obligee make one of the co-obligors his executor and die, whether he who is made "executor shall have an action against any of the others; and Bryan said that he "should not, for if one was discharged all shall be discharged, because the making one "of them executor is as perfect a discharge in law as if he had released it on one deed. "Copley.—'Sir, the obligation is several.' Bryan.—'This does not matter, for a "'recovery against one of them and execution sued will be a discharge to the others; "'and so of a discharge made to one of them.'"

This case was followed in modern times in Cheetham v. Ward, 1 Bos. & Pul. 630, in which Chief Justice Eyre said, "I am satisfied that this case may be decided in favour of "the defendant on the principle now acknowledged that where a personal action is once "suspended by the voluntary act of the party entitled to it, it is for ever gone and dis-"charged. This was admitted to be the case where there is but one obligor in a bond. "But a distinction was attempted between the case of a single obligor and that of two "who have become bound jointly and severally. The very point in issue was, however, "decided in the year book, and Bryan there gives a satisfactory reason for the decision. "In fact, there is but one duty extending to both obligors; and it was there pointedly "put that a discharge of one, or satisfaction made by one, is a discharge of both."

And in a still more recent case, Nicholson v. Revell, 4 Ad. & E., 675, where a creditor in a joint and several promissory note, having discharged one of the parties in consideration of receiving a part of the sum due, was held to discharge the others. Lord Denman, C.J., in delivering the opinion of the Court, observes, "We give our judgment "merely on the principle laid down by Lord Chief Justice Eyre in Cheetham v. Ward, "as sanctioned by unquestionable authority, that the debtee's discharge of one joint and "several debtor is a discharge of all."

Where, instead of a release, the creditor enters into a covenant not to sue one of several joint debtors, he does not thereby discharge the others. There is obviously no substance in this distinction.

Again, where the creditor expressly reserves his remedies against the other co-obligors, even a discharge to one does not release the others. The law on this subject, however, is not in a very satisfactory state, for it has been thought by eminent judges that a reservation by the creditor to which the co-obligors were no parties could not take away the legal effect of the act done, viz., the discharge of the co-obligors.*

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* In ex parte Gifford, 6 Ves., 808, the Lord Chancellor (Eldon), as to the effect of such a reservation, said, "As to the receipt the creditor contends, there is no difference whether there is an "express reservation of the remedies against the co-sureties; but that distinction has been taken. "At the time of Mr. Richard Burke's case, Lord Thurlow admitted, that if there is a reserve of "the remedies against the others, there is consent of the party with whom the composition is "made; and if out of that a demand arises against him, it is a demand which began to exist with "his consent, expressed in the terms of the contract, and under some circumstances wisely and "prudently given; for the party would not have entered into the contract unless he was allowed "to contract for that remedy over against the co-sureties."

In delivering the judgment of the Court in Nicholson v. Revill, 4 Ad. & E., 683, Lord Denman, with reference to this case of ex parte Gifford, observed, "Some of the expressions employed by "Lord Eldon would seem to lay it down that a joint debtee might release one of his debtors, and "yet, by using some language of reservation in the agreement between himself and such debtor, "keep his remedy entire against the others, even without consulting them. If Lord Eldon used "any language which could be so interpreted, we must conclude that he either did not guard "himself so cautiously as he intended, or that he did not lend that degree of attention to the

VI. *A discharge of one of several sureties ought not to release the others beyond the extent to which the surety discharged was bound to contribute to their relief.*

What I have already said as to co-obligors generally is equally applicable to co-sureties. When the principal debtor fails to pay the sureties inter se are liable rateably. And all the reasoning which recommends the Scotch rule as to discharging co-obligors applies also to the discharge of co-sureties. There ought not to be different rules as to two sets of obligations. And I cannot help thinking that great confusion would arise if the law of Scotland were, as proposed in the Report, assimilated to the law of England and Ireland as to co-sureties, and left in its present, and, I humbly think, preferable state as to co-obligors generally.

VII. *When a seller of goods which have been left in his possession undelivered sells them a second time to a bonâ fide buyer, the first buyer should have no remedy against the second for the goods or their value.*

I think the laws of England and Ireland, and the law of Scotland, may be assimilated to the above effect without interfering with the cardinal distinction between them in regard to the transfer of the right of property. I prefer the Scotch rule which holds that the right of property is not transferred until delivery ;† but I hesitate to recommend so material an alteration in the law of England and Ireland, when I consider that the law of England and Ireland is the same in America, in France by the Code Civile, and in Holland by the Code de Commerce. For it is desirable that the same rules should exist on so leading a point in different States, which have extensive dealings with each other.

But in the particular instance under consideration there is another principle of law enough for its support, viz., that the seller was left the ostensible owner of the goods, and innocent third parties were entitled to deal with him as such. The first buyer, therefore, who had himself to blame for not taking delivery, should be the sufferer rather than the second buyer, who relied on that ostensible ownership which the conduct of the first buyer created.

JAS. ANDERSON.

Lord Truro, in the recent case of Owen v. Homan, 3 Macn. & G., 410, took the same view as Lord Denman of such reservations. One question there was, Whether a creditor, in giving time to a principal debtor, could effectually reserve his right against the surety? Lord Truro thought the agreement could have no effect upon the legal operation of giving time as a discharge.

On the effect of such reservations generally, his Lordship said, "The general rule is clearly la'd "down in all the text books. In Bassett v. Wood, Vin. Abr. tit. Extinguishment, B. pl. 8., it was "held that a creditor accepting a Statute from a joint debtor discharged the co-debtors; and in "Everard v. Hearn, Litt. Rep. 190, that a release to one of several obligors releases all the "obligors, and that a proviso that the other obligors shall not take advantage of it is void. It was "to avoid that consequence that in Solly v. Forbes, 2 Brod. and B. 38, the Court held the instru-"ment not to be a release. The proviso in Bassett v. Wood manifested beyond doubt that it was "not intended the co-debtors should be discharged; but the Court rejected such intention as "repugnant to the rule of law, that a release of one should not enure to the discharge of all, and, "therefore, disregarded the intention."

But Owen v. Homan was carried to the House of Lords by appeal; and although the judgment was affirmed (4 House of Lords Cases, 1037), it was so upon a different ground, the Lord Chancellor (Cranworth) expressing his dissent from the views of Lord Truro. His Lordship remarked: "That a general rule exists, such as is contended for by the plaintiffs, I should, but for the "high authority of the judgment now under appeal, have thought to be a matter beyond doubt. "I should have thought, on principle as well as on authority, that it must be competent to a "creditor to contract with his principal debtor to give him time, so far as he can lawfully and "effectually do so without prejudicing his right against the surety. If he may do this by a "contract in these express terms the question in every case must be, whether the contract, how-"ever worded, has not that meaning. I must, therefore, guard myself against being thought to "acquiesce in the opinion that such a reservation against the sureties is not effectual."

† By the law of Scotland the contract of sale is regarded only as an agreement for a transfer, —as "a contract whereby one of the parties becomes bound to deliver a certain subject or com-"modity to another, with a view of transferring the property, in consideration of a determinate "price of current money to be paid for it. Though this contract is perfected by consent alone, "it does not strike against the rule of law that the property of things cannot be transferred but "by tradition; for though the contract is entered into and perfected with a view of transferring "the property to the buyer, it is not actually transferred, but remains with the seller or vendor "till the delivery of the subject."—*Erskine*, III. 3. 2.

In this respect the Scotch law has followed the Roman; and this was likewise the law of France previous to the Code Napoleon. It is laid down by Pothier in nearly the same terms as by Erskine. (Traité Du contrat de vente, N. 318.) He says, the effect of delivery is to pass the property in the thing sold to the purchaser. "The contract of sale cannot of itself produce this effect. "Contracts can form only the personal engagements between the contractors, and delivery made "in pursuance of the contract can alone transfer the property, according to the rule *Traditionibus non "nudis conventionibus dominia transferuntur*. L. 20 Cod. de Pact. It follows, that if the proprietor, "after selling an article to A., without delivering it, should be so dishonest as to sell and deliver "it to B., a subsequent bona fide purchaser, the property would be transferred to B. A. would "only have a personal action against the vendor for his damages and loss resulting from the "non-execution of the contract, and would have no right in the property as against B. He has "neither jus ad rem nor jus in re."

This also was formerly the law in Holland, the property of the goods sold remaining in the seller until delivery was made to the buyer.—Van der Linden, b. 1. c. 15. s. 9.

The law of England has itself undergone a change in this respect. It appears from a very old case in the year books that at that time (1477) the mere contract of sale did not transfer the property when the price was not paid. 17 Edw. 4. fo. 1 & 2., pl. 2nd., where Littleton, J., said, "I can "never admit that the property is in him who purchases verbally without payment, for it is not "an absolute bargain, but upon a condition in law, viz., that if he pay it shall be good; if

SECOND REPORT.

APPENDIX A.

APPENDIX A. TO SECOND REPORT.

APPENDIX A.

" A COMMISSION having been issued by Her Majesty to inquire whether it will be " expedient that any and what alterations shall be made in the Mercantile Laws of the " United Kingdom in those respects in which the Laws of Scotland differ from those of " England and Ireland in order to their being assimilated, the Commissioners request you " to state,—

" 1. Any points of difference in the Mercantile Laws of the three parts of the United Kingdom of which you are aware not noticed in the following pages (exclusive of the Laws of Bankruptcy and Sequestration).

" 2. Any inconvenience which you have experienced, or are aware of, arising from the existence of specific differences.

" 3. In what particulars, and in what manner, (if at all,) you would recommend that differences should be removed by assimilation."

Upwards of five hundred copies of the " Points of Difference in the Mercantile Laws," stated in the following pages, and numbered one to ninety-three, were printed with the above inquiries prefixed, and were issued by the Commission in the following manner, viz.:—

One copy to each of

ENGLAND - The JUDGES of the COURT of CHANCERY.
" " SUPERIOR COURTS of LAW.
The DEAN of the ARCHES.
The JUDGE of the HIGH COURT of ADMIRALTY.
The ATTORNEY GENERAL.
The SOLICITOR GENERAL.
The COMMISSIONERS of the COURT of BANKRUPTCY.

SCOTLAND - The JUDGES of the SUPREME COURTS.
The LORD ADVOCATE.
The SOLICITOR GENERAL.

IRELAND - The LORD CHANCELLOR.
The JUDGES of the SUPERIOR COURTS of LAW.
The ATTORNEY GENERAL.
The SOLICITOR GENERAL.

And to each of about eighty other persons selected by the Commissioners.

And several copies (from four to twenty-four) to each of the under-mentioned municipal, legal, or commercial bodies, viz.:—

ABERDEEN - - Town Council.
BELFAST - - - Chamber of Commerce.
BERWICK-UPON-TWEED Town Council.
BIRMINGHAM - - Town Council.
BRADFORD - - Chamber of Commerce.
BRISTOL - - Chamber of Commerce.
CARLISLE - - - Law Society.
CORK - - - Chamber of Commerce.
DUBLIN - - - Chamber of Commerce.
" - - - Statistical Society.
DUNDEE - - Chamber of Commerce.
EDINBURGH - - Faculty of Advocates.
" - - - Society of Writers to the Signet.
" - - - Society of Solicitors before the Supreme Courts.
" - - - Society of Solicitors-at-Law.
" - - - Convention of Royal Burghs.
" - - - Chamber of Commerce and Manufactures.
" - - - Committee for the Amendment and Consolidation of the Commercial Law.
GLASGOW - - - Faculty of Procurators.
" - - - Dean of Guild.
" - - - Chamber of Commerce.
" - - - Law Amendment Society.
GREENOCK - - Chamber of Commerce.

Hull	Chamber of Commerce.
„	Law Society.
Leeds	Chamber of Commerce.
„	Law Society.
Leith	Chamber of Commerce.
Liverpool	Chamber of Commerce.
„	Law Society.
London	Incorporated Law Society.
„	Metropolitan and Provincial Law Association.
„	Society for Promoting the Amendment of the Law.
„	Committee for the Amendment of the Law of Debtor and Creditor.
Manchester	Commercial Association.
„	Chamber of Commerce.
„	Law Society.
Newcastle-upon-Tyne	Commercial Association.
„	Law Society.
Nottingham	Town Council.
Southampton	Chamber of Commerce.
Sunderland	Law Society.
Wakefield	Law Society.
Worcester	Chamber of Commerce.

All the replies received in time for consideration by the Commission are subjoined.

The respondents were—

The Faculty of Advocates of Scotland.
The Society of Writers to Her Majesty's Signet.
The Society of Solicitors before the Supreme Courts of Scotland.
The Faculty of Procurators in Glasgow.
The Convention of Royal Burghs of Scotland.
M. D. Hill, Esq., Q.C., a Commissioner of the Court of Bankruptcy and Recorder of Birmingham.
Alexander Blair, Esq. Treasurer of the Bank of Scotland.
Leone Levi, Esq., Lecturer on Commercial Law at King's College, London.
The Dublin Chamber of Commerce.
The Leith Chamber of Commerce.
The Town Council of Berwick-upon-Tweed.
The Committee for the Amendment of the Law of Debtor and Creditor, London.
The Manchester Chamber of Commerce.
Edward Heath, Esq., Vice President of the Liverpool Chamber of Commerce (whose reply was concurred in by Mr. C. Robertson, and adopted by the Special Committee of the Council of the Liverpool Chamber of Commerce).

[The replies of the above-mentioned respondents being detailed, are annexed in the following pages to the points of difference to which they relate.]

		Page.
1.	The Right Hon. Maziere Brady, Lord Chancellor of Ireland	112
2.	The Right Hon. Thomas Lefroy, Lord Chief Justice of Ireland	113
3.	The Hon. Mr. Baron Greene, Dublin	113
4.	Mr. Commissioner Stephen, Bristol	114
5.	Gerald Fitz Gibbon, Q.C., Dublin	114
6.	James A. Anderson, (late Manager of the Union Bank), Glasgow	115
7.	Hugh Barclay, Perth	115
8.	James Brown, (a Director of the Bank of Scotland and Accountant), Edinburgh	115
9.	James Brown, Merchant, Dundee	116
10.	Allan Gilmour, Merchant, Glasgow	116
11.	Richard Miller, Merchant, Leith	117
12.	James Potts, Merchant, Coal Fitter and Ship Broker, Newcastle-upon-Tyne	117
13.	Chamber of Commerce and Manufactures, Edinburgh	118
14.	Germain Lavie, Solicitor, London	120
15.	Chamber of Commerce, Liverpool	125
16.	Society for Promoting the Amendment of the Law, London	126

Explanation of Abbreviations used in the following pages:—

Fac. Adv. -	- Committee of the Faculty of Advocates of Scotland appointed to consider the communication from the Mercantile Law Commission, and to prepare a reply to it.
Wr. Sig. -	- Committee on Bills of the Society of Writers to Her Majesty's Signet.
Soc. Sol. -	- Council of the Society of Solicitors before the Supreme Courts of Scotland.
Fac. Proc. -	- Dean and Council of the Faculty of Procurators in Glasgow.
Conv. Royal Burghs	- Annual Committee of the Convention of Royal Burghs of Scotland.
Berwick Watch Comm.	Watch Committee of the Town Council of Berwick-on-Tweed.
Law of D. and C. Comm.	Committee for the Amendment of the Law of Debtor and Creditor, London.
Ch. Comm. -	- Chamber of Commerce.

POINTS OF DIFFERENCE IN THE MERCANTILE LAWS,

WITH THE OBSERVATIONS THEREON OF RESPONDENTS.

ENGLAND AND IRELAND.

1. No contract for the sale of goods, wares, or merchandise, for the price of 10*l.* or upwards, *is good* without some note or memorandum in writing of the bargain be made and signed by the party to be charged by such contract or his agent.

Except there be delivery to, and acceptance by, the buyer of the whole or part.

Or the buyer give something in earnest to bind the bargain, or in part of payment of the price.

29 Car. 2. c. 3. s. 17. (England.)
7 Will. 3. c. 12. s. 13. (Ireland.)

A bargain within either of the exceptions above-mentioned may be established by any legal evidence, except as to ships.

The statute of frauds applies, although the goods are not to be delivered till a future time, or are not made at the time of the contract, or some act is requisite for rendering the goods fit for delivery. 9 Geo. 4. c. 14. s.7.

And it applies, although the goods were sold by public auction, Kenworthy *v.* Schofield, 2 B & C. 945.

SCOTLAND.

A contract for the sale of any goods of other moveable, (with the exception of ships) is effectual without writing,

Whether the goods are, or are not, manufactured or ready for delivery, or whether they are to be delivered immediately, or at a future day;

And whether the sale be by private bargain or public auction.

And the contract may be established by parole or other legal evidence.

SALE OF GOODS

Constitution of Contract.

Your committee are not aware of any inconvenience being occasioned by the difference between the law of Scotland and that of England as to the constitution of the contract of sale of goods. And they do not think it desirable that any change, such as the introduction of the Statute of Frauds, should be made on the law of Scotland, in order to assimilate it to that of England, on the point stated in the first inquiry under this head.—FAC. ADV.

This Committee are of opinion that, considering the great commercial intercourse now existing between England and Scotland, it is desirable that all laws bearing upon mercantile transactions should be assimilated.

With respect to the laws connected with the sale of goods, it appears to this Committee that the law of Scotland is the simplest and most beneficial to the interest of commerce—permitting, as it does, the contract to be proved by oral testimony; and they would therefore recommend that in this respect the law of England should be assimilated to the law of Scotland.

They would strongly deprecate the introduction into the law of Scotland of the Statute of Frauds. The want of it has certainly not been felt as an inconvenience.—WR. SIG.

The law of Scotland has followed and adopted very closely the Roman law in all that relates to the nominate contracts. Sale is the most important of these contracts, and it is here enough to say, that a radical difference exists between its *constitution* as a contract, and the *transference* of the property.

It is considered that the rule of the Scotch law permitting the contract to be proved by oral evidence is beneficial to the interests of commerce. The want of a "statute of frauds" has not been felt in Scotland.

The exceptions which seem to be allowed in England also point at the expediency of the Scotch rule.—SOC. SOL.

We consider (there being two dissentients on this point,) that the contract of sale of personal property, except ships, ought to be constituted by the consent and agreement of parties without writing, or any particular form of words, and that such contract should be *established* by oral or other legal evidence; and we therefore greatly prefer the Scottish rule, which in practice had been found to work well.

The necessity of writing may appear to tend to procure accuracy and prevent dispute, but this is, in the opinion of the majority, more theoretical than actual, and the cases which

SALE OF GOODS.
Constitution of Contract.

have occurred in England, under the exceptions from the Statute, so far at least as we can follow their import, as being comparatively strangers to the system, do not prove that writing is *essential*, but rather show that oral evidence, if admitted in all cases, would not have produced any injurious results, because there has been apparently no difficulty felt in applying the results of oral testimony, where admitted, to the circumstances of each case, while there may be very many cases in which, from the hurry of business, difficulty of parties expressing themselves in writing, or for other reasons, it would be expedient to allow oral testimony, as it is in all criminal matters.—FAC. PROC.

The Scottish rule is preferable.—CONV. ROYAL BURGHS.

I prefer the English rule, but its wholesome effects are sometimes defeated by the admission of *parol* testimony where the instrument is sworn to have been lost. I think such testimony should be inadmissible, except where the party sought to be charged has been guilty of fraud or *laches* in respect of such instrument.—M. D. HILL.

I am not aware of any inconvenience requiring a revision or change of the law in Scotland. I apprehend that sales and purchases in Scotland are frequently accompanied by a written contract.—A. BLAIR.

It is submitted that no limitation should be placed as to proofs, whether by writing or by parole. The Statute of Frauds is productive of much litigation. It is opposed to the practice of common contracts, most of which are made verbally; and it is contrary to the spirit of the present law of evidence. In France, parole evidence of a contract is valid when the tribunal thinks it admissible (109 C. of Co. Vol i. p. 334*.) In Louisiana, verbal sales of moveables to any sum are valid (2,416 Civ. Co. Vol i. 314.); and so in Prussia (144—149, Landrecht, Vol i. p. 273.) The exception as to the amount of evidence required to establish the transfer of ships founded on grounds of public policy may remain. The Statute of Frauds is in force in the colonies of Jamaica, Tortola, Antigua, Montserrat, Dominica, Tobago, Grenada, St. Vincent, Bermuda, Upper Canada, Nova Scotia, and Prince Edward's Island. So in Barbados, the Bahamas, and New Brunswick, and also in the United States, except Louisiana as above (See Burge's Col. and For. Law, Vol. ii. p. 525.) A contract void in this country by the Statute of Frauds could not be maintained in any other country.—L. LEVI.

In the opinion of this Council the law of Scotland is to be preferred. The vast majority of mercantile contracts are made without any writing; and it is evident that they ought to be capable of being established by "parol or other legal evidence," for the law, as it now stands in England and Ireland, is obviously advantageous to the dishonest trader and prejudicial to the honest one.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

The Committee by a large majority decided in favour of the English law. The minority, however, thought that the admission of the evidence of principals rendered this restriction upon evidence unnecessary, arguing that in all important cases merchants and men of business would for their own security and to prevent error always commit their contracts to writing.—LAW OF D. & C. COMM.

This Board would give a decided preference to the Scotch Law. The *practice* of Manchester has always been in accordance with it. In the immense transactions which take place here, the use of a written contract is the exception rather than the rule.—MANCHESTER CH. COMM.

The English law safest and best, except in cases of public sale by auction, when the auctioneer's catalogue and evidence should be sufficient proof of contract.—E. HEATH, LIVERPOOL CH. COMM.†

	ENGLAND AND IRELAND.	SCOTLAND.
SALE OF GOODS. *Effect of Contract on Ownership.* 2.	The property in specific goods ready for delivery passes to the buyer, on the making of the contract and before delivery. Therefore the buyer is subject to the risk of *accidents* to the thing bought.	The property does not pass to the buyer until delivery. Yet the buyer is subject to the risk of *accidents* to the thing bought from the date of the contract.

The differences between the law of Scotland and that of England as to the effect of the contract of sale on ownership, arise from the general principle recognised universally by the law of Scotland, both as to heritable and moveable subjects; that property is transferred only by delivery, and not by simple contract. This principle is derived from the civil law, and appears to rest on strong grounds both of reason and expediency. Your committee would regret to see any innovation on a maxim so well understood and so long established in our jurisprudence, and they are not aware of any practical inconvenience that arises from the difference in this respect between the two systems of law.

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* The references in Mr. Levi's replies are to his work entitled "Commercial Law, its Principles and Administration."
† The replies of Mr. E. Heath were concurred in by Mr. C. Robertson, and are those referred to in the Report of the Special Committee of the Liverpool Chamber of Commerce, (p. 117.)

That which is stated as an anomaly in the law of Scotland in Art. 2. of the inquiries, viz. that the buyer is subject to the risk of accidents to the thing bought from the date of the contract, might probably be more correctly expressed by saying that the thing purchased is at the risk of the buyer from the time of the completion of the contract, provided the seller be not *in morâ* to make or tender delivery. This maxim, "*Periculum rei venditæ nondum traditæ est emptoris,*" is also derived from the civil law, and is well explained by Mr. Bell in his Commentaries, as being no anomaly in the law of property or transference, but depending on the law of obligations. The effect of the rule is to assimilate the law of Scotland to that of England, in the matter of risks of accident after completion of the contract Therefore, although they may rest on different grounds, it is unnecessary to contemplate any change in either.—Fac. Adv.

The difference between the law of Scotland and that of England as to the effect of contract of sale on ownership, arises from the principle of the law of Scotland, that property is transferred only by delivery, and not by simple contract.

This principle is founded on the civil law, and is supported both by reason and expediency. This Committee would regret very much to see any change made on a maxim so well understood. They are not aware of any practical inconvenience that has arisen from it.

The anomaly stated in Article 2 of the inquiries should be more properly stated thus: —" That the article purchased is at the risk of the buyer, from the time of the completion " of the contract, if there is no *mora* on the part of the seller in making delivery." This is not an anomaly in the law of property, but depending on the law of obligations. As the same rule applies in England, although resulting from the application of different principles, no change in it seems necessary.—Wr. Sig.

The rules of the Scotch law seem to be preferable, because they flow from the principle which lies at the root of the transaction, viz., that the property of the thing sold can only pass to the buyer by delivery. The contract creating in favour of the buyer merely a personal right or *jus ad rem*,—delivery of the thing sold being essential to confer property, or *jus in re*. Prior to delivery, seller and buyer stand under reciprocal personal obligations, and hence arise the rules, that the buyer is subject to the risk of accidents prior to delivery, and that the seller has a right of retention for a separate debt as in the cases of *Melrose* and *M'Naughton*, and the earlier case of *Mein* v. *Bogle and Company*, 17th January 1828, 6 Shaw, p. 360.

These cases were decided upon the strength of the rule that delivery, actual or constructive, is necessary to transfer the property; and in *Melrose*, the property being within a bonded warehouse, an intimation to the original vendor of a sub-sale was held insufficient to pass the property to the sub-vendee, who ought to have obtained constructive delivery by an intimation to the warehouse keeper. The property, being unchanged by the sub-sale and want of intimation, was thus open to the equitable right of retention exercised by the original vendor.

This class of cases in the Scotch courts stand upon the essential difference between the *titulus* and the *modus transferendi*, and we humbly think the rules ought not to be changed.—Soc. Sol.

We are unanimously of opinion that *delivery*, real or constructive, (as in the case of property in the hands of a store-keeper or third party,) should be essential *to pass the property* to the vendee. It is the simplest, plainest, and least fallacious test of ownership, and adherence to it excludes innumerable subtleties and metaphysical distinctions, which have produced great embarrassments. We therefore prefer the Scottish rule.

In our replies to all the subsequent queries as to *sale*, *lien*, &c., we assume that actual or constructive *possession* is to be the test of *ownership*.

As to ships, we think that (independently of public policy) in consequence of the institution of registers, a different rule, in reference only to the constitution of the contract, applies, and that writing and registration should be required to pass the property. Practically the present system works in general admirably, both as to facility of transfer and security. In one respect, however, we have found a difficulty of considerable importance. In a sale by a *first mortgagee* of a ship, the Custom House officers, acting on the directions of the Law officers of the Crown, endorse on the register in favour of the purchaser the postponed mortgages as *ex facie* still affecting the vessel, which practically precludes a first mortgagee selling,—at least, getting full value for his security.

With regard to the second branch of the query, viz., the *periculum* of the article sold, we consider that, in accordance with the above principle, the risk, *till the time fixed for delivery*, should remain with the seller, who, as custodier, is the more natural party to take care of the goods, or to suffer for the loss; and that as a general rule, the date at which delivery is stipulated to be given ought to be the criterion for ascertaining the party subject to the risk of accidents, and that after that date, the party *in morâ* or failing to implement ought to be liable.—Fac Proc.

The Scottish rule is preferable.—Conv. Royal Burghs.

I cannot fully approve either of the English or Scotch rule. Deception and litigation are both avoided when property and possession go together, and injury is avoided when possession and responsibility go together. I am therefore of opinion that as between buyer and seller there should be no change of property until there is a change of possession, except by special contract, and that as regards third persons, possession should be conclusive evidence of property, except where the sale is registered; and I also think

SALE OF GOODS.
Effect of Contract on Ownership.

that, subject to exception by special contract, the party having possession should incur full responsibility for accidents, including fire, loss by theft, &c.—M. D. HILL.

There seems to be an inconsistency in the law which makes the buyer subject to accidents, although the property has not passed, and which appears a subject for regulation.—A. BLAIR.

The effect of a commercial contract of sale is the immediate transfer of property; the ownership passes to the buyer, notwithstanding the goods are not delivered nor the price paid, provided they are not to be weighed, counted, or measured, but are sold in the lump. So it is in France (1,583 Co. Civ. vol. i. p. 314.) and Holland, (1,494, C. Civ. vol. i. p. 314). In Prussia the acquisition of property is perfected only by delivery (1. p. 315.) So in Austria, (1,053, vol. i. C. Civ.) By the English law and the Civil Code of France, the purchaser by the contract of sale becomes the owner of the goods, and subject to the right of the seller to the price, they remain immediately at the risk of the buyer. This I conceive to be the effect of a contract of sale. Mr. Bell, the learned author of the Commentaries of the Law of Scotland, said, that by the contract, the buyer is creditor and the seller is debtor for delivery; the seller is creditor and the buyer debtor for the price. But is not this the effect of transfer? Why is the buyer creditor for delivery? Because he has acquired a right over the property. Real or constructive delivery is essential to deprive the seller of the right of lien or stoppage in transitu, but by the contract of sale a metaphysical transfer of the property is effected which gives to the vendee a right of disposal over the goods,—a right of disposal which is one of the chief ingredients of a right of property. A purchaser of goods, paying the value on the drawing up of the contract, or becoming a debtor for the same, must be considered as acquiring a greater right than a right of action against the vendor. By the contract he is entitled to immediate delivery. It is the infringement of the agreement that would entitle him to a right of action. In England and Scotland, the buyer is subject to the risk of accidents to the thing bought, though as a consequence of the former cause, it proceeds from a different source. It is said in the Scotch law, that an accident in the goods prior to delivery, without fault of the seller, gives the buyer no right to damages, and therefore it is tantamount to say that they at his risk. But the truth is, that the moment the contract is made, the seller keeps the goods for the buyer, and as they are undelivered for his convenience only, they lie there at his danger. Of course the question is different where the merchandise is sold by weight or measure, then they remain at the risk of the seller so long as they are not weighed or measured; but if they are sold by the lump, the risk is at once on the buyer, (1,585, 1,586 French Co. Civ. Vol. i. p. 315.) The same is in Prussia (97-99. Vol. i. p. 321.) Pugg. *v.* Minett, 11 East, 210.—L. LEVI.

We think the property should not pass to the buyer till delivery; and the seller should be subject to the risk of accidents till delivery, unless such delivery be postponed beyond the usual period at the instance of the buyer.—DUBLIN CH. COMM.

The property ought to pass to the buyer when the price has been paid, whether delivery has been taken or not. The seller ought to be subject to the risk of accidents until the goods are delivered or paid for.—LEITH CH. COMM.

Scotch preferred, with the modification that the *seller* be subject to risk till delivery.—BERWICK WATCH COMM.

Unanimously adopt the Scotch law, with the omission of the second sentence.—LAW OF D & C. COMM.

S. right; but no buyer ought to be considered as subject to the risk of accidents until the property shall have been delivered to him according to agreement, or at least tendered.—MANCHESTER CH. COMM.

Unless it were possible to make a distinction between the "interest" in goods and the "property," which distinction might be found convenient in certain contingencies, the English law appears the simplest and the most equitable.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
SALE OF GOODS. *Effect of Contract on Ownership.* 3. If credit be not stipulated for, or if a stipulated term of credit has expired, the seller may retain possession till the price be paid, but not for a general balance arising from other transactions.	Though credit be stipulated for, the buyer has no property until delivery. The seller may retain the goods, not only for the price, but also for a separate debt due to him by the vendee, and (it has been recently held that) he is entitled to do so, even against an onerous sub-vendee, and for a balance owing from the first vendee in respect of dealings after the second sale, and notice thereof to the first seller. Melrose *v.* Hastie, 13 Session Cases, 880. McNaughton *v.* Bairds, 14 Session Cases, 1010.

The difference between the laws of the two countries, noticed in the 3d article of inquiry, arises from the principle as to the transference of property already mentioned. Questions of difficulty, no doubt, have arisen, and may probably still occur in Scotland,

Sale of Goods.
Effect of Contract on Ownership

in such cases as that of Melrose & Co. *v.* Hastie, as to the time when, or manner in which delivery is made of goods which are not in the natural possession of the seller, but in that of a prior vendor, or of some third party holding for him at the time of a sub-sale; but it does not appear to your committee that these difficulties are such as to make any change on the principle of the law desirable, or that any practical inconvenience has occurred in consequence of the differences between the law of Scotland and that of England, as stated in Nos. 3 and 4 of this head of the inquiries.

Your committee may remark farther, in reference to the manner in which the law of Scotland is stated in Art. 3 by the commissioners, that the decisions in the cases referred to introduced no novelty into the law of Scotland, but were merely instances of the application, in somewhat perplexing circumstances, of a principle of our law, recognised by our oldest institutional writers. The true question at issue in both cases being, whether the original seller had, prior to the sub-sale, parted with the possession of the goods, so as to have lost his ownership or right of property.—Fac. Adv.

The difference in the laws of the two countries noticed under this head of inquiry arises from the principles already alluded to. There being no transfer of property, the seller is entitled to hold the property in security, or as a lien for any debt due to him by the purchaser. The case of Melrose merely carried out this principle. It is one founded on equity, and which this Committee conceive should not be altered.—Wr. Sig.

See No. 2.—Soc. Sol.

Holding delivery necessary to pass property, and that possession ought to presume property, the principle of the Scottish law, as laid down in the cases cited, appears to us to follow as a necessary consequence, notwithstanding the doubts thrown out in Melrose's case in the House of Lords; because the first seller may have given other credit on the faith of the undelivered (though paid for) property; and on the other hand, a subsequent purchaser ought to protect himself by obtaining possession.

It may be remarked that in Baird's case, the first sellers had *no* notice, actual or constructive, of the second purchase until after the contraction of the subsequent debt by the first buyer.

In consequence of the remarks made in the House of Lords on Melrose's case, we give this last opinion with much deference, and one of our members (Mr. Morrison) dissents from it.—Fac. Proc.

The Scottish rule is preferable.—Conv. Royal Burghs.

With regard to the right of retaining possession, I think the English rule would be found, in the majority of cases, more in unison with the intentions of the parties at the time of the transaction than the Scotch rule, and I therefore prefer it.—M. D. Hill.

The same remark applies here on the supposition of a credit. The law of set-off is different in Scotland from the English law and may require revision.—A. Blair.

The vendor has a right of lien over the goods not only for the price, but also for a separate debt due to him by the vendee or for a general balance arising from other transactions, even against an onerous sub-vendee; but it does not seem just that the vendor should retain the goods for a balance owing from the first vendee in respect of dealings after the second sale, and after having had *notice thereof.* The property having been transferred by the contract, the goods can only be retained for the price, such transaction being independent of all others, yet the right of lien of the seller being against the buyer, with whom he may have a continuous relation of business, it seems just that the same should be retained for a general balance of accounts.—L. Levi.

We think the law of E. and I. the more equitable.—Dublin Ch. Comm.

Assimilate to England and Ireland.—Leith Ch. Comm.

Scotch. The whole of this preferred.—Berwick Watch Comm.

Adopt the Scotch law, with the omission of all the words after "sub-vendee."—Law of D. & C. Comm.

S. right; but the buyer should not lose any advantage that might accrue to him under the original agreement, nor the seller from the sale. This Board would concur in the propriety of the second paragraph of the Scotch rule, so far the parenthesis; to the condition represented by the words after the parenthesis it strongly objects.—Manchester Ch. Comm.

No good reason why a seller should not retain possession for a general balance, provided it be undisputed, but not as against a disputed account or balance.—E. Heath, Liverpool Ch. Comm.

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4. ENGLAND AND IRELAND.

If goods are sold on credit, and before delivery to the buyer, the seller sell them (otherwise than in market overt), and deliver them to a third party, the first buyer has a remedy for the goods or their value against such third party, whether he had or had not notice of the first sale.

See No. 3.—Fac. Adv.

SCOTLAND.

If goods are sold on credit, and before delivery to the buyer the seller sell and deliver them to a third party, the first buyer has no remedy against such third party, unless he establish fraud or collusion.

Sale of Goods.
Effect of Contract on Ownership.

SALE OF GOODS.

Effect of Contract on Ownership.

The rule of the law of Scotland, as here laid down, is a necessary consequence of the principle that the property does not pass until delivery. The buyer therefore has no right in the goods (although he may have an action against the seller for damages), and cannot therefore follow them in the hands of a third party.

This Committee are of opinion that in this, as well as in the preceding points, the law of Scotland is preferable to the law of England, and if there is to be any change, it ought to be one which would assimilate the law of England to the law of Scotland.—WR. SIG.

See No. 2.—SOC. SOL.

As a corollary from the above principles, the Scottish rule follows of necessity.—FAC PROC.

The Scottish rule is preferable.—CONV. ROYAL BURGHS.

The English rule is a logical sequence of that which makes the property pass at the time of the contract, and in my opinion forcibly illustrates one of its defects. The Scotch rule on the other hand is founded in obvious justice.—M. D. HILL.

Probably there is not any real difference between the laws of the two countries, taking into consideration the provision for sale in market overt in one case, and the exception against fraud and collusion in the other.—A. BLAIR.

The distinction of sales in market-overt should be altogether abolished, all commercial transactions being in a manner made in market-overt. Where goods sold are, before delivery to the buyer, sold and delivered to another, the first buyer should have no remedy against such third person, unless he can establish fraud or collusion on the part of the latter.—L. LEVI.

We consider the law of S. the proper one, if the second sale be made according to the usages of trade, and the buyer have no reasonable ground to suspect the fairness of the transaction.—DUBLIN CH. COMM.

The Scotch law is considered more equitable.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

Unanimously adopt the Scotch law.—LAW OF D. & C. COMM.

S. quite right.—MANCHESTER CH. COMM.

The Scotch rule appears more in accordance with other commercial practices.—E. HEATH, LIVERPOOL CH. COMM.

	ENGLAND AND IRELAND.	SCOTLAND.
SALE OF GOODS. *Purchaser's remedy agnstai Seller.* 5.	The purchaser cannot, in general, enforce delivery of the goods purchased *specifically*, and his remedy practically resolves itself into a claim for damages, whether he sues specially for non-performance of the contract, or brings an action of detinue for the goods themselves, or an action for the conversion of them.	The purchaser's remedy is to have implement of the contract by delivery of the goods, and damages for withholding delivery. If specific goods are sold, and in the possession of the vendor, the vendee may bring an action *ad factum præstandum* to enforce delivery. But not if the vendor has become bankrupt; and in that case the vendee's claim resolves into a personal demand for damages, and he will be ranked along with other personal creditors on the bankrupt estate.

Neither are your committee aware of any inconvenience having been experienced from the difference stated to exist between the laws of the two countries, regarding the purchaser's remedy against the seller, or the seller's against the purchaser, as stated in Nos. 5 and 6 of the inquiries; but they think the remedies afforded by the law of Scotland preferable to, and more efficient than those admitted by the law of England, as stated in the inquiries.—FAC. ADV.

(5 and 6.) This Committee are also of opinion that on these two points, viz., the remedies afforded to buyer and seller, that the law of Scotland is preferable to that of England, so far at least as your Committee understand the nature of the remedies afforded by the law of England. They have had some experience of the inconvenience arising from the want of proper remedies by that law.—WR. SIG.

These rules in the law of Scotland flow from the principle already mentioned, that the obligations of the parties arising out of the contract are personal, and the property of the thing sold remains unchanged till delivery.—SOC. SOL.

Specific implement of a bargain, is surely better than allowing compensation for failure; and, where that can be given, the Scottish rule is, therefore, much more direct and simple. There are many cases in which a value attaches in the purchaser's fancy to a specific article (*e.g.* a horse, a dog, or a picture, in the case of moveables, or a piece of land in the case of heritage) which damages cannot measure; and while the article is extant and no competing claim for it, either by other purchasers or by general creditors in bankruptcy, there seems to be no reason why the article sold should not also be the article delivered. We think the purchaser should have the option of laying his action, either for implement or for compensation; but we would allow the seller to meet such action in either case by a tender of the article sold, provided there had been no such change of circumstances as to make its delivery valueless, or of less value to the purchaser.

In the case of bankruptcy, by which the whole estate is at once made a general fund, the test of possession will of course apply.

SALE OF GOODS.
Purchaser's remedy against Seller.

The adoption of the alternative of *specific implement* or *compensation* has an important bearing on the *measure of damages for non-fulfilment*.—See No. 11.—FAC. PROC.

The Scottish rule is preferable.—CONV. ROYAL BURGHS.

The Scotch rule gives the most complete remedy, and I therefore prefer it.—M. D. HILL.

The purchaser's remedy against the seller does not seem insufficient in Scotland, or to vary in effect from that used in England, except in the case of bankruptcy, giving rise to the difference, which flows from the property of the goods not having passed to the buyer in Scotland.—A. BLAIR.

Where the goods are in the possession of the vendor, the purchaser has a right to demand the fulfilment of the contract by the delivery of the goods. The payment of damages may not satisfy the just rights of the purchaser. But where the vendor has become bankrupt, the purchaser can only resolve the claim into a personal demand, and he must rank along with other creditors.—L. LEVI.

We prefer the law of E. and I. as more convenient, and less capable of being converted by special pleading into an instrument for defeating the just claim of the purchaser.—DUBLIN CH. COMM.

The Scotch law right in principle.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch. The whole of this preferred.—BERWICK WATCH COMM.

Unanimously adopt the Scotch law.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

The purchaser should have the *option* of compelling delivery of specific goods, *or* of suing for damages.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.

6 When specific goods have been sold, the seller may sue the purchaser for the price.

When the sale is not of specific goods, the seller must sue on the contract for the damages actually sustained.

SCOTLAND.

The seller may sue the purchaser for the price and interest, whether the goods sold are specific or not, provided goods according to the contract have been tendered to the purchaser.

SALE OF GOODS.
Seller's remedy against Purchaser.

See No. 5.—FAC. ADV.

See No. 5.—WR. SIG.

See No. 5.—SOC. SOL.

Again the Scottish rule has the merit of directness and simplicity, and it seems equitable and consistent with general legal principles, that if one party to a contract has implemented or is ready to implement his part, he should have right to enforce implement against the other party of the counter engagements.—FAC. PROC.

The Scottish rule is preferable.—CONV. ROYAL BURGHS.

The English distinction between the remedy as to specific goods, and as to goods not specified, appears to me to be a distinction without a difference. I prefer the Scotch rule.—M. D. HILL.

The seller has done all in his power to fulfil the contract, either in the case of specific goods or otherwise, and it therefore seems to me that he should have the same remedy as if the goods were actually delivered and received.—A. BLAIR.

Whether the goods sold are specific or not, the seller has a right to the amount of the price, from the day when delivery was to be made; and interest would commence running from that date in conformity with mercantile practice.—L. LEVI.

For the same reasons as in No. 5 we prefer the law of E. and I.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

Unanimously adopt the Scotch law.—LAW OF D. & C. COMM.

S. quite right.—MANCHESTER CH. COMM.

The Scotch mode appears to be the simpler and better.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.

7 After sale upon credit, and before delivery, the goods cannot be sold by the sheriff for the benefit of an execution creditor of the seller.

After sale, and before delivery, an execution creditor of the buyer may, as against creditors of the seller, have the thing seized by the sheriff in the hands of the seller,

SCOTLAND.

After contract of sale and before delivery whether the goods have or have not been paid for by the buyer, they may be taken in execution by a creditor of the seller, and such diligence gives the creditor a right to have the goods sold for his benefit.

If the seller becomes bankrupt before delivery, the goods belong to the trustee for

SALE OF GOODS.
Sale before Execution or Diligence against Seller.

Sale of Goods.

Sale before Execution or Diligence against Seller.

and sold for the benefit of such creditor of the buyer, subject to the vendor's lien for the price, if unpaid.

It is otherwise in bankruptcy, where the goods are left in the order and disposition of the vendor, as apparent owner, and he is made a bankrupt.

12 & 13 Vict. c. 106. sec. 125. (England.)
6 Will. 4. c. 14. s. 86. (Ireland.)

the general body of the seller's creditors, and the buyer is merely a creditor for the price, or so much of it as he may have advanced, and for damages, in so far as he may have sustained loss by not having implement of the contract.

The rule of the law of Scotland as to sale before diligence against a seller, stated in Art. 7 of the inquiries, is a necessary consequence of the principle of the law of Scotland already mentioned, that transference of property is only completed by delivery, and your committee have already remarked that it is not desirable to alter that principle, and there does not seem to them to be any practical inconvenience arising from the difference between the two systems of law stated in this article.—Fac. Adv.

As what is stated under this head is merely a necessary corollary to the principle of the law of Scotland, and as this Committee are of opinion that the principle should not be altered, they do not think any change should be made on this rule.—Wr. Sig.

We prefer adhering to the general principles of the Scotch law, which regulate the rights and liabilities of buyer and seller and their respective creditors, rather than the special rules of the English law.—Soc. Sol.

Possession being held as the test and badge of ownership, the article sold will continue subject to the diligence of the seller's creditors prior to delivery. This rule is by far the most intelligible and practical, and even if in some cases attended with hardship, is it better to allow this than to introduce elements of uncertainty and difficulty, which in themselves are often wrought out into much greater hardships than those which they profess to cure.—Fac. Proc.

We prefer the Scottish rule. Buyer may guard against loss by taking delivery By leaving the goods he may mislead persons to trust the seller.—Conv. Royal Burghs

From my answer under the head No. 2, it necessarily follows that I must prefer the Scotch rule.—M. D. Hill.

This difference in the law flows also from the property of the goods remaining with the seller in Scotland.—A. Blair.

According to the doctrine that the property passes by the contract, the English rule on the subject is a necessary consequence, except when the goods were left by the buyer in the hands and at the disposal of the seller, as reputed owner. The exception in case of bankruptcy, might be advantageously extended to all cases where the goods were clearly left at the seller's disposal.—L. Levi.

We prefer the law of S. Considering that property should not pass till delivery, and that till delivery it therefore remains as the apparent property of the seller, we think his creditors justly entitled to it.—Dublin Ch. Comm.

Assimilate to England and Ireland, with this qualification, viz., if the goods have been paid for by the buyer before delivery, and the seller becomes bankrupt, they should be held to belong to the buyer, and not to the trustee. If not paid for, then it ought to be be as at present in Scotland.—Leith Ch. Comm.

Scotch. The whole of this preferred.—Berwick Watch Comm.

Unanimously adopt the Scotch law.—Law of D. & C. Comm.

E. and I. right.—Manchester Ch. Comm.

A creditor on obtaining execution should enter upon all the rights and actions of his debtor; the debtor having sold but not delivered goods would have *no* right to resell to another, nor should the execution creditor; but as the debtor would have *a lien* until the price was paid, the execution creditor should certainly enter on that lien also. In other respects the English law seems preferable.—E. Heath, Liverpool Ch. Comm.

Sale of Goods.

Sale after issue of Writ of Execution or of Precept of Poinding against Seller.

ENGLAND AND IRELAND.	SCOTLAND.
8. An execution creditor of the seller may have a sale for his benefit of all the seller's goods in the possession of the seller at the time of delivery of the writ to the sheriff, notwithstanding a subsequent sale to a *bonâ fide* purchaser, not in market overt.	The issuing of a precept of poinding and the execution of a charge for payment, until followed by an execution of poinding, do not prevent a sale of goods by the debtor.

Samuel v. Duke, 3 M. & W. 622.

The statement of the law of Scotland in Art. 8 of the inquiries is incorrectly headed as "Sale after Diligence." The diligence of poinding is not completed until it is carried into effect by execution, and the statement in the article is merely to the effect that inchoate diligence has not the effect of attaching property. Your committee can see no ground for wishing any change of the law in this respect.—Fac. Adv.

The rule of Scotch law is merely, that diligence does not attach property until it is completed. A poinding is not completed until execution. This Committee do not think that any change is desirable on this rule.—Wr. Sig.

See No. 7.—Soc. Sol.

Sale of Goods.
Sale before Execution, or Diligence against Seller.

The principle of possession again resolves these questions into simple elements. To make the attachment of or nexus on property by a creditor complete, we think that there should be some public or open act, and we would suggest that the diligence of a poinding creditor should not be held as completed, in competition with a *bonâ fide* purchaser, unless he has *tempestivè* completed his diligence, and got the pointed effects removed to a place of safety. In practice, many instances of hardship, in some cases almost amounting to fraud, occur by execution creditors, with debts of which no one knew any thing, coming in and sweeping away a whole estate to the prejudice of all the parties with whom the debtor had been trading; at least this has been the experience of Scottish creditors in competition with English execution creditors, without their seeing any countervailing benefit from the English rule.—Fac. Proc.

The Scottish rule is right; as the mere issuing of a precept of poinding or a charge cannot attach the goods.—Conv. Royal Burghs.

I prefer the Scotch rule. Execution executed ought, I think, to be the dividing point.—M. D. Hill.

I do not know that any inconvenience results from the Scottish law, which interferes less with the freedom of trade, nor am I aware in what degree the exception in England of "not in market overt" tends really to assimilate the working of the English and Scottish law.—A. Blair.

Were all sales considered as made in market-overt, a *bonâ fide* sale, made after the delivery of the writ to the sheriff but before execution, would be conclusive against the right of the sheriff. How should the purchaser know the existence of a writ of execution o long as the seller has undisturbed possession of the goods.—L. Levi.

We consider the law of E. and I. a good one; it follows naturally and equitably from our previous suggestions.—Dublin Ch. Comm.

Assimilate to Scotland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

S. right.—Manchester Ch. Comm.

The period fixed by the Scotch law for a valid sale is the correct one.—E. Heath, Liverpool Ch. Comm.

ENGLAND AND IRELAND.	SCOTLAND.
9. Under circumstances such as those stated on the other side, there is no implied warranty.	There is an implied warranty on the part of the seller, that the thing sold will be fit for the purpose for which the seller knows that it was bought, even against defects unknown to the seller, and when the purchaser has had a full opportunity of inspecting the thing. 1. Bell's Comm. 438.

Sale of Goods.
Warranty.

The statement of the law of Scotland as to warranty in Art. 9 of the queries, is by no means correctly expressed. It would be more accurate to say that "There is an implied warranty on the part of the seller that the thing sold *for a full price* is an article "of marketable quality, and fit for the purpose for which the seller knows that it was "bought, even against *latent* defects unknown to the seller." In other words, that it is not incumbent on a purchaser to prove fraud against a seller in order to enforce warranty. There is no authority in the law of Scotland for holding that there is any implied warranty on the part of the seller against *patent* defects, "when the purchaser has had a full opportunity of inspecting the thing." With this explanation, your committee do not think that any practical inconvenience arises from the alleged difference between the laws of the two countries.—Fac. Adv.

The law of Scotland appears to this Committee not to be correctly laid down under this head. The law of Scotland, as understood by this Committee, is, that where a purchaser buys an article for a full price, there is an implied warranty that the article is fit for the object for which it is bought, and this warranty covers even a latent defect. An obvious defect, which the buyer could at once see, is not covered by such warranty.

Understanding this to be the law of Scotland, this Committee are of opinion that it ought not to be altered, and they are not aware of any inconvenience resulting from it. At the same time they are not aware of any inconvenience having arisen in consequence of this rule of law being different in England.—Wr. Sig.

This statement of the law of Scotland is perhaps too brief to convey a correct idea of what the law is. It is understood, however, that the broad difference between the English and Scotch rule is, that by the law of England an express warranty is in all cases required, even against *latent* defects, and by the law of Scotland, warranty is implied except against obvious defects, to which the buyer is presumed to have waived all objection after inspection. The good faith which is presumed to guide the parties to the contract, leads to the implied warranty recognized in Scotland, and we do not consider it expedient to adopt the English rule.—Soc. Sol.

Sale of Goods. *Warranty.*

We have considerable difficulty, and there is difference of opinion, as to this point.

On the one hand, as the implied warranty in such cases proceeds on the footing of a full price having been paid for a sound article, and only applies to defects so latent that the purchaser's examination could not discern them, there is neither impolicy nor injustice in the Scottish rule; but, if it is adopted, the damages ought to be limited to repetition of the price, with interest, thus setting the parties free, as if they had never contracted which it is presumed would have been the case if the defect had been known.

On the other hand, although, on abstract principle, the Scottish rule may be the sound one, expediency and the exclusion of litigation require that the loss arising from latent defect, unknown to either party, should fall on the one who is the owner of the article at the time of discovery of the defect.—Fac. Proc.

The Scottish rule is preferable. In England such warranty is applied to a horse; why not therefore as to other goods?—Conv. Royal Burghs.

In these cases two sound principles of legislation come into conflict, and require adjustment. The first is, that implied warranties ought to be discouraged as tending to lay vigilance asleep, and to give rise to litigation. The other principle is, the advantage of uniting responsibility with power. There should, I think, be no implied warranty against defects obvious to a vendee acting according to the usual course of trade. But with regard to all other defects, unless the vendee is put on inquiry by lowness of price, I think there should be an implied warranty that the article is reasonably fit for its ordinary purpose. The effect of such a warranty would be that the ultimate buyer (namely, the user of the article,) would have a remedy against the shopkeeper, who would fall back on the merchant or factor, who again would have recourse to the manufacturer, and he in some cases would have his remedy against the producer or importer of the raw material. Thus a chain of responsibility would be established which in the majority of cases would make the loss fall on the party really to blame in the transaction. From this answer it will be perceived that though I prefer the Scotch rule to the English, I think each is open to amendment.—M. D. Hill.

The law of Scotland, as broadly stated, seems unreasonable, as it relieves the buyer, apparently, from the necessity of using his senses, and exposes the seller to the onus of proving that the defects supposed did not exist at the term of the sale.—A. Blair.

An implied warranty on the part of the seller that the thing sold will be fit for the purpose for which they are purchased, is already partly acknowledged by the English law. It is just that the injury caused by the delivery of goods other than those contracted for, should be borne by the party who first committed the breach. In France (Code Civ. 1,641, Vol. i. p. 324), the seller is responsible for the concealed defects of the goods, even when they were unknown to him. If the seller was ignorant of the defects, he will be only bound to return the price and reimburse the buyer of the expenses. If he knew them, he will be bound to pay all charges and damages, besides returning the price.—L. Levi.

We prefer the law of S. as more reasonable and just. The seller of goods should be much better informed on every matter connected with them than a chance buyer, and the balance of equity is evidently in favour of holding him accountable, though occasionally it may operate harshly.—Dublin Ch. Comm.

The Scotch law right.—Leeds Ch. Comm.

Assimilate to England and Ireland.—Leith Ch. Comm.

English and Irish preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

E. and I. right.—Manchester Ch. Comm.

The "equity" here will vary according to the circumstances of each case. Where goods are bought in open market, the English rule seems the better; but in those instances where a party orders from a tradesman or a shop an article for a specific purpose, naming that purpose, and a secret defect be discovered after delivery, the consequences of such defect should be borne by the seller, but only within certain limits of time.—E. Heath, Liverpool Ch. Comm.

	ENGLAND AND IRELAND.	SCOTLAND.
Sale of Goods. *Auction.* 10.	The seller, *without giving notice* of his intention, may employ one person to make one or more biddings up to a fixed sum, to prevent the property being sold at an undervalue. Flint *v.* Woodin, 9 Hare, 618.	The seller must give notice of his intention to employ a person to bid on his behalf.

The different rule adopted in Scotland and England as to biddings by the exposer at sales by auction, stated in Art. 10, is not attended with any practical inconvenience. The interest of the exposer may be provided for in Scotland by exposing goods at an upset price, as is generally done in sales of heritable property, and in other sales whenever the seller thinks it expedient.—Fac. Adv.

This Committee are of opinion that the Scotch law is preferable. The system of what are called "reserved biddings" without notice may lead to most injurious consequences.—Wr. Sig.

SALE OF GOODS.
Auction.

The Scotch rule is preferable. The frauds which are committed, by the system of "white-bonneting" are notorious. In sales of heritable property it is not unusual to *reserve* a "bidding" in favour of the exposer, but the other offerers are made aware of the condition. In sales of valuable personal effects, there seems no objection to this practice being followed; but in the every-day auctions of merchandise, where no notice is given to the public, the system (practised even in Scotland, where it is illegal) is pernicious.—SOC. SOL.

We think the Scottish rule fair and equitable, and in practice it has been found highly salutary; but we would suggest the adoption in Scotland of the practice which we believe to prevail in England, viz., offering the property to be sold to competition without fixing an upset price, the seller merely reserving the option to make one bid in the event of his being of opinion that the property is going at too low a price. This bid, we understand is generally written down privately. and sealed up before the auction begins, and may either be used or not as the seller sees fit. The effect we anticipate from the adoption of this plan in Scotland would be to draw out purchasers, and encourage competition at the very first exposure, and thus avoided the expense and delay consequent on the repeated exposures at reduced upset prices. In case we are, from practical ignorance of these matters, mis-stating the English rule, we may add that our object is to adopt some method by which, while a fair competition is allowed, the seller may not be, as has frequently happened, exposed to loss through a secret combination among the bidders.—FAC. PROC.

The Scottish rule is better, and more calculated to guard against fraud.—CONV. ROYAL BURGHS.

The English rule appears to me to give a direct encouragement to fraud, while the Scotch rule is consonant with justice.—M. D. HILL.

The fair practice would be a notice that the goods would not be sold under a sum named.—A. BLAIR.

A sale by auction implies an intention on the part of the seller to dispose of the article in favour of the best bidder, and therefore it is incompatible with the seller employing a person to make one or more biddings for himself. All that may be permitted to the seller to do is, to give prior notice that he will not be disposed to knock down the goods below a certain price.—L. LEVI.

We prefer the law of E. and I. We see no reasonable advantage to be derived from a change, and we consider that the Scotch law defeats itself.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

S. approved.—MANCHESTER CH. COMM.

The Scotch practice fairest.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
11. The value of the thing bought at the time at which the delivery should have taken place can, in general, alone be regarded, and the purchaser is not entitled to compensation with reference to a subsequent rise in the value.	The value of the thing between the time at which the delivery should have taken place, and the time of trial may, in general, be taken into consideration in assessing the compensation to the purchaser.
Shaw *v.* Holland, 15 M. & W. 136. Westropp *v.* Solomon, 8 C. B. 345. See p. 373.	Dunlop *v.* Higgins, 6 Bell's App. 195. 1. H. L. C. 381.

SALE OF GOODS.
Measure of Damages for non-delivery by Seller.

Your committee approve of the rule of the law of Scotland as stated in this article, and may refer, in support of it, to the cases of Watt against Mitchell & Co., 4th July 1839, and Howie against Anderson, 14th January 1848, as well as Dunlop against Higgins. As the statement of the law of England made in this article, as well as that of the law of Scotland, is qualified by the expression "in general," your committee are not informed to what extent there is any practical difference between them. They observe that, in a recent case decided in the Court of Common Pleas—Owen *v.* Routh, 23d Law Journal, Hil. Term 1854, C. P. p. 104—It was "admitted that the proper measure of "damages, in a case of breach of contract by non-delivery of certain shares in a joint-"stock company, was the price of the shares at the time of trial." Your committee do not think that there is any inconvenience arising from the supposed difference between the laws of the two countries in this respect.—FAC. ADV.

This Committee approve of the principle of the law of Scotland, and it appears to them that it is only just that the party should be entitled to claim the full value which the article would have been to him, if the seller had fulfilled his bargain. But to a certain extent this must always be a question for a jury. They are not aware of any inconvenience having arisen from the present state of the law in Scotland.—WR. SIG.

The measure of damage is always a question for a jury. In a pure case, where the buyer had, immediately on non-delivery, supplied himself with the goods from another party, it seems plain that the measure of damage should be the difference of price. But,

Sale of Goods.

Measure of Damages for non-delivery by Seller.

if the commodity be scarce, the price rising, and the buyer unable, until after the lapse it may be of some weeks, to supply himself from other parties at various prices, and the commodity itself not of equal *intrinsic* value, the pure rule would be inapplicable. Or, if the commodity cannot be got at all in the market, and the buyer is thereby unable to fulfil his contracts, and to make that profit which other dealers in the commodity are making, the pure rule would also be inapplicable; *or*, if the sale has been on credit, and the buyer has granted his bill for the price which has been passed by the seller to an onerous indorsee, and *then* the seller fails to deliver, here the buyer is doubly exposed to risk—he is liable for the bill when due, *and* he has to supply himself with the goods from another party.

It seems, difficult, therefore, to lay down an absolute rule; each case depends upon different circumstances, and it seems most expedient to leave the law upon general principles to be applied by the judge who presides at the trial.—Soc. Sol.

The principle of compensation will depend to a considerable extent on the solution of the question, whether specific implement is to been forced or damages allowed.—See No. 5.

If specific implement is not to be enforced, but only compensation given, the English rule appears to be preferable, both on principle and in practice, because when a party repudiates a bargain the other party can then provide himself elsewhere, and consequently the actual loss is the difference between the original and substituted bargain. But if specific implement is to be allowed, it would be hard to deprive the party suing of the profit which he would or might have made had he got timeous implement, or if he should not succeed in getting specific implement, and only gets damages, it would be hard to give him merely the price at the time at which implement was refused, when he could not turn the article to account, and therefore there seems no reason why the party failing should not make up the full loss according to the Scottish rule.

Perhaps the difficulty might be got over by giving, as already suggested, the party willing to implement the alternative, either to sue for specific implement or for damages, but to require him to make his selection. If he chose the former, the Scottish rule would be applicable; if the latter, the English.—Fac. Proc.

The Scottish rule is preferable.—Conv. Royal Burghs.

The English rule is palpably unjust, while the Scotch rule appears unobjectionable.—M. D. Hill.

The circumstance of the Court of Session being a court of equity as well as of common law has probably given rise to this difference.—A. Blair.

The measure of damage due for the non-delivery of goods bought is the value of the thing at the time delivery should have taken place, as it may be in the power of the purchaser having the money in his hands to purchase the like goods the very day. If they cannot be purchased, then the market value at that time is the true standard of the damages. Much uncertainty would exist in calculating the amount of damages between the time of delivery and the time of trial, especially should the trial be prolonged.—L. Levi.

We prefer the law of E. and I. The great difficulty of proving *bonâ fide* fluctuations in value of goods at different periods, and the possibility of fictitious transactions being entered into to establish prices at particular periods, deter us from adopting the law of S.—Dublin Ch. Comm.

Assimilate to England and Ireland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

S. approved.—Manchester Ch. Comm.

As a general rule the English practice should be retained; but special cases might call *equitably* for a different decision.—E. Heath, Liverpool Ch. Comm.

	ENGLAND AND IRELAND.	SCOTLAND.
Sale of Goods. *Distress and Hypothec.*	12. Landlord's *right of distress* attaches only after the rent has become due.	Landlord's *right of hypothec* affects the property of the tenant, not only for rent which has become due, but for that which is accruing due.

The right of hypothec belongs, in some respects, more properly to the law of landed rights, than to that of the sale of goods. In Art. 12 of the queries, no reference is made to the distinction between the two kinds of hypothec, which are known in the law of Scotland. The one being used for payment of rent past due, and attaching the crop of each year for the rent of the year, corresponds, it is believed, to the landlord's right of distress in England. The other being used in security, attaches the crop and stocking of the tenant for security of current rent. It is believed that there is no right in the law of England corresponding to this. Your committee are not competent to judge whether or not it may be expedient to introduce such a right into England, but they are of opinion that, subject as it is to well-known restrictions in its use, it has worked well and beneficially to tenants in this country, and that it would be injurious to take it away. Much difference of opinion may probably be entertained as to another branch of the law of hypothec, viz. as to the extent to which it has been carried in allowing the landlord

to follow, *de recenti*, grain not sold in bulk in public market, which has been delivered to and taken away by a purchaser, so as to compel second payment of the price, as was found in the case of the Earl of Dalhousie *v.* Dunlop and Company, 27th February 1828. But this inconvenience in the law of Scotland (if it be one) does not appear to your committee to be occasioned by the difference between the laws of the two countries, or rather, it is not a matter in which the law of Scotland is ever likely to be brought practically into conflict with that of England, and consequently, it does not seem to fall within the scope of the inquiry to which the attention of your committee has been directed.—Fac. Adv.

Sale of Goods.
Distress and Hypothec.

The right of hypothec here referred to belongs more to the law of land rights, than the law merchant. In Scotland, the landlord has not only a claim of hypothec over the crop for the rent which may be actually due, but for the rent then current. This Committee are not aware whether there is any right similar to this in the law of England; but if there is not, this Committee do not imagine any practical inconvenience can arise from the difference of the law in the two countries. They do not think the law of Scotland should in this respect be altered.—Wr. Sig.

By the law of Scotland, the landlord's *right of hypothec* in urban tenements must be made effectual within three months after the last conventional term of payment of the rent in each year, otherwise the hypothec is lost. The hypothec may be used during the currency of the year in security, provided there be circumstances in the condition of the tenant warranting the landlord to take such a step. This is attended with advantage, as it frequently prevents tenants in desperate circumstances removing and disposing of their furniture between terms.

The hypothec over farm stock must be made available within the same period. The hypothec over the crop seems to stand on the principle that it is the property of the landlord until the rent of the year of which it is the produce be paid, and may be made special so long as the crop remains on the lands.

The point of difference here stated is not likely to create any practical inconvenience.—Soc. Sol.

Assuming that the landlord ought to have a preference, it is reasonable that it should attach for the rent of the current year before it is payable, otherwise it may be evaded. But we do not thing that the landlord's hypothec should be available unless made effectual within a short defined period (say two months) after the last portion of the year's rent is payable, and before removal of the effects, unless the removal is clandestine.—Fac. Proc.

The right to sequestrate for rent to become due, only applies to bygone rents and the rent of the current year, and a sale cannot take place till after the term at which the rent falls due. There seems no reason to alter this rule.—Conv. Royal Burghs.

I much prefer the Scotch rule.—M. D. Hill.

No change seems to be called for in Scotland.—A. Blair.

No debt accrues till the rent has become due; and where there is no debt there cannot be right of distress or of hypothec.—L. Levi.

We see no reason for increasing the powers already enjoyed by the landlords of England and Ireland.—Dublin Ch. Comm.

The English law right.—Leeds Ch. Comm.

Assimilate to England and Ireland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

E. and I. approved.—Manchester Ch. Comm.

The propriety of giving landlords *any* exclusive privilege is questionable, but certainly there should be no further extension to them.—E. Heath, Liverpool Ch. Comm.

ENGLAND AND IRELAND.	SCOTLAND.
13. Sale in market overt of stolen goods gives the purchaser an absolute right against the true owner, until the latter has prosecuted the thief to conviction.	No purchaser of stolen goods can acquire an absolute right to them against the true owner.

Sale of Goods.
Sale of Stolen Goods.

Your committee do not think that any practical inconvenience arises from the different rule adopted in the two countries as to the sale of stolen goods stated in Art. 13. It is a question of hardship, or *de damno evitando*, on the side both of the true owner and of the *bonâ fide* purchaser, as to which the equity is very nicely balanced. On the whole, the safest rule of principle seems to be in favour of the true owner, whose right of property cannot be destroyed by the illegal act of another, without any acquiescence on his part. At all events, the rule of the law of England would be inapplicable in Scotland, where the distinction of "market overt" is ill-understood, and criminal prosecutions by the owners of stolen goods are practically unknown.—Fac. Adv.

There is no doubt that there may be considerable hardship arising from either of the two laws: in the one case, the true owner suffers—in the other, the *bonâ fide* purchaser; and in balancing the advantages, this Committee are of opinion that it is more consonant with true principle to protect the rights of the true owner. They are,

Sale of Goods.
Sale of Stolen Goods.

however, not aware of any inconvenience having arisen from the difference of the law in this respect between the two countries; and at all events, as the law of purchasing in market overt is not so well understood in Scotland, and prosecutions by the owners of stolen goods quite unknown, they do not think that the English law on the subject should be introduced into Scotland.—Wr. Sig.

It is difficult to balance the advantages and disadvantages of the English and Scotch rules. A purchaser in open market, who there pays the price and receives delivery, is entitled to look for protection. On the other hand, the encouragement which it has been thought this gives to crime, and to thieves or their confidants resorting to public markets, is viewed as disadvantageous to the whole community.

By the law of Scotland the *vitium reale* attaches perpetually to the stolen goods, and is not obliterated by the subject passing into other hands under supervening contracts between honest parties. This may be carrying the *vitium* in the title of the thief too far.

While it is thought the Scotch rule gives greater protection to the true owner, and greater safety to the public, it is felt that a purchaser in public market stands exposed to some hazard. If, however, the opposite rule in England has been found to work advantageously, its introduction into Scotland could not be seriously objected to.—Soc. Sol.

We think (with one dissentient voice) that theft ought to be a *vitium reale* in all questions of title. The owner of property may be able to prove that the property was stolen, although unable to convict the thief; which, however, seems quite independent of the fact of the theft. This can scarcely be held to interfere with the doctrine of ownership, as stolen goods are seldom long enough in the hands of a thief to afford a presumption of ownership. See as to Bills p. 8, 9, No. 6.—Fac. Proc.

The Scottish rule is preferable. There seems no reason why a man should be deprived of goods stolen from him because the thief has escaped detection or conviction. The reason of the English rule (to ensure prosecution) does not apply in Scotland.—Conv. Royal Burghs.

The right of the true owner to follow property in the hands of the purchaser acting *bonâ fide and with due caution* is not adapted to the habits and course of business of the present time. Where, therefore, sales are effected in the ordinary course of business, and at a legitimate price, and where there are no circumstances to awaken the suspicion of the buyer, I am of opinion that the right of property should pass even as against the true owner.—M. D. Hill.

No change in the law of Scotland seems called for.—A. Blair

A *bonâ fide* purchase of stolen goods should give the purchaser an absolute right against the true owner, notwithstanding the latter has prosecuted the thief to conviction. It is in vain to say that property cannot be acquired, except by the consent of the party transferring it, and that as the true owner never transferred it, a *bonâ fide* purchaser cannot be in a better position than the seller was. Should there be reason to suspect, or ground to suppose that the purchaser knew the property to have been stolen, then the true owner would have a right to recover it, even though he had not yet prosecuted the thief to conviction. But not when the goods were purchased in public market, and for an onerous consideration.—L. Levi.

We prefer the law of E. and I. on grounds of public policy.—Dublin Ch. Comm.

The Scotch law right.—Leeds Ch. Comm.

Assimilate to England and Ireland, with the qualification in Scotland,—provided the public prosecutor prosecutes.—Leith Ch. Comm.

English and Irish preferred.—Berwick Watch Comm.

S. adopted.—Law of D. & C. Comm.

E. and I. right.—Manchester Ch. Comm.

English practice best.—E. Heath, Liverpool Ch. Comm.

	ENGLAND AND IRELAND.	SCOTLAND.
Sale of Goods. *Payment of Price.* 14.	May be proved by oral evidence only.	There must be written evidence of payment, unless in the case of a ready-money transaction, where payment is part of the *res gestæ*, or the whole sum is under 100*l.* Scots (8*l.* 6*s.* 8*d.*)

The rule of the law of Scotland referred to in Art. 14, as to the incompetency in the ordinary case of proving payment of money by parole, applies to manyother transactions as well as the sale of goods, and should not be changed without full consideration of all its bearings. Your committee are not aware of any practical inconvenience arising from the difference between the laws of the two countries on this head.—Fac. Adv.

This Committee are of opinion that in all transactions which can be proved orally, the discharge should also be allowed to be proved orally. They do not see any reason for a different rule of evidence being applicable to the discharge of an obligation from what is necessary to prove the constitution of an obligation.—Wr. Sig.

The Scotch rule which requires written evidence of payment of money where the amount is above 100*l.* Scots, seems much preferable in a mercantile community to the English rule, which admits oral evidence. The facilities of correspondence and of granting

receipts make it matter of ease to give written acknowledgments for money paid. The multiplicity of transactions which mercantile men have to pass through their hands, render it highly expedient that payment of money should not be left to the vague and indistinct recollection of witnesses, who are apt to mistake one transaction for another, and one sum of money for another.

Sale of Goods — *Payment of Price.*

In Scotland the oath of the receiver may always be resorted to, failing written evidence; and the party who pays money without obtaining a receipt, may be presumed to trust the transaction to the memory of the receiver.—Soc. Sol.

We see no reason (two of our number dissenting) why payment should not be proved orally, and perceive no principle for the Scottish exception on that head. In practice the necessity of writing has been found to occasion great hardships and occasional inconsistencies.—Fac. Proc.

The Scottish rule entails no hardship on the contracting parties, and is calculated to prevent litigation.—Conv. Royal Burghs.

I prefer the Scotch rule. I would, however, abolish all reckoning by Scotch pounds, and put the amount at ten pounds sterling, in conformity with the sum fixed by the Statute of Frauds.—M. D. Hill.

A contract for the sale of goods may be proved in Scotland by parole evidence, but the payment must be proved (generally) by written evidence. I see no reason for the distinction.—A. Blair.

Payments or other acts may be proved by verbal or written evidence. The anomaly of fixing sums or amount of damages or any other figures by "Pounds Scots." which are not current and illegal, should be removed. The same observation would apply to any other money, weight, or measure still in use in Scotland or Ireland, having regard to the uniformity of money, weights, and measures established by statute throughout the United Kingdom.—L. Levi.

We prefer the law of E. and I. We conceive that all contracts and payments should be provable by oral or any other legal evidence.—Dublin Ch. Comm.

Assimilate to England and Ireland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

E. and I. right.—Manchester Ch. Comm.

ENGLAND AND IRELAND.	SCOTLAND.
15. If blank as to date are deemed to be dated on the day of issue, of which oral evidence may be given.	If blank as to date, summary diligence cannot be used: and if the sum exceed 100*l.* Scots, (8*l.* 6*s.* 8*d.*) the date, even in an ordinary action, can be supplied only by written evidence.

Bills and Notes — *Want of date.*

(15.—33.) Bills and Notes.—Your committee are of opinion that on this branch of law the assimilation of the laws of the two countries is desirable; and that the law of England, matured by eminent jurists in its administration in that great commercial country, is entitled to high respect.—Fac. Adv.

Your committee approve of the law of Scotland on this subject, and farther recommend that, in the case of bills and notes without a date, a distinction should be made between those drawn "at" or "after sight," or "on demand," and those drawn "after date." That such bills or notes drawn after date should be regarded as mere documents of debt between the original parties, and should not be negotiable, but that the other should have all the privileges of bills accorded to them, and that their date should be deemed to be that of the day of issue, which should be provable by any legal evidence.—Fac. Adv.

This Committee approve of the law of Scotland. They would at the same time strongly recommend that the law as to bills and promissory notes should be the same in both countries; and not the law only, but the remedies also.—Wr. Sig.

The principle on which summary diligence is rested in Scotland excludes all oral evidence, either for the purpose of supporting or destroying the bill. The bill *per se* must be probative, *i. e.* free from blemish or vitiation in its essential parts, and it can only be cut down by the *writ* or *oath* of the creditor. If oral evidence were admissible on the one side, or on the other, summary diligence and execution would be an inconsistent remedy,

As it is understood that something analogous to the degree of registration and summary diligence is about to be introduced into the law of England, it is recommended that the rule of the law of Scotland, which gives to a bill all the privileges of a probative instrument, should be adopted in England. Without such a principle, it is believed a system of summary execution will not be successful in operation.—Soc. Sol.

We think the English is the simpler and, therefore, the better rule; but we are clear that the privilege of summary diligence should only be given to bills *ex facie* regular *in all respects*, and that bills irregular in form should only be held as acknowledgments of debt.—Fac. Proc.

We prefer the Scottish rule.—Conv. Royal Burghs.

I would consider bills, if blank as to date, payable on demand, but I would not give the holders the advantage of a summary remedy.—M. D. Hill.

BILLS AND NOTES.
Want of Date.

Laying aside every consideration of the Stamp Act, there seems no reason why the verification of the date, omitted in error, should not be made by oral evidence.—A. BLAIR.

The value which may attach to a bill of exchange, blank as to date, will depend on the terms on which it is drawn. In the case of a bill drawn at so many months or days after date, oral evidence would scarcely be sufficient for using summary diligence upon it, whereas in the case of a bill payable on a certain specific day, it would matter little whether it was blank as to date. The date is one of the principal requisites of a bill of exchange by foreign law; a bill without date would only be held as a simple promise or as an I.O.U.—L. LEVI.

We prefer the E. and I. law.—DUBLIN CH. COMM.

It is a common practice in some parts of the country to postdate bills, and should the Scotch practice of summary diligence be, as intended, introduced into England and Ireland, a hardship would be inflicted where the date in such a case had been accidentally omitted, as a party might be called upon to pay a bill much sooner than he had calculated, or was prepared to do. It is thought, therefore, the English law should be assimilated to that of Scotland in this respect. —LEEDS CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

The English practice simplest.—E. HEATH, LIVERPOOL CH. COMM.

	ENGLAND AND IRELAND.	SCOTLAND.
BILLS AND NOTES. *Effect on drawer's funds in hands of drawee.*	16. A bill has no operation to charge specific funds of the drawer in the hands of the drawee.	A bill operates as an assignment of funds of the drawer in the hands of the drawee.

Laycock *v.* Johnson, 6 Hare, 199.

Your committee think that the law of Scotland is correctly stated on this point, subject to the explanation that the expression "*funds*" is limited to cash or money, and that intimation by presentment is required to render the assignment effectual. Your committee are of opinion that the law of Scotland is more favourable to commerce is this case, and they would recommend its being extended to England.—FAC. ADV.

If the word "funds" in this article means cash or money, this Committee think the statement as to the law of Scotland correct; perhaps it ought to have added that intimation of the draft is necessary. They do not think that the rule should be altered.—WR. SIG.

After presentment and protest for non-acceptance, the bill operates as an assignment of funds in the hands of the drawee, so that the drawee is not entitled thereafter to apply the funds to any other purpose than to meet payment thereof. The creditor is therefore entitled, after the bill has become due, to sue (by ordinary action) the drawee, and if he establish that funds were in the drawee's hands at the date of presentment, he is entitled to recover. This rule is preferable to the rule of the English law.—SOC. SOL.

The Scottish rule is a simple and cheap mode of securing money, and saves resorting to judicial proceedings, and we therefore think that it ought to be adopted.—FAC. PROC.

We prefer the Scottish rule.—CONV. ROYAL BURGHS.

I prefer the English rule.—M. D. HILL.

This proceeds in Scotland upon the right derived from assignation, and the law seems somewhat stretched in favour of bill holders, as it appears to operate not only as a conveyance to the claim but also to the goods. It is desirable that the law should be assimilated, but for this purpose it may be necessary to consider the whole Scottish law of assignation.—A. BLAIR.

A bill does operate as an assignment of funds. What is a bill but a letter assigning to another a portion of funds held by the drawer in the hands of the drawee? When the bill is accepted, the drawee is understood to have appropriated the necessary funds for the service of the payee, or his assigns.—L. LEVI.

We prefer the E. and I. law.—DUBLIN CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

The Scotch practice not only appears to be the right one, but is that which practically is usually followed, even in England, in mercantile affairs.—E. HEATH, LIVERPOOL CH. COMM.

	ENGLAND AND IRELAND.	SCOTLAND.
BILLS AND NOTES. *Drawer in one and drawee in another part of the U. K.*	17. A bill drawn on a party in Scotland is a foreign bill. It therefore requires protest, to preserve recourse against the drawer andindorsers, and the acceptance need not be in writing.	A bill drawn on a party in England or Ireland is a foreign bill.

Your committee would recommend that all such bills be declared to be inland bills. (See No. 25.)—FAC. ADV.

This Committee are of opinion that all such bills should be declared to be inland. They think also that the rule of law as to the negotiation of inland bills in Scotland, by which fourteen days is allowed for giving notice of dishonour, should be altered, and that the rule applicable to what are called foreign bills, should be made applicable to all bills. —WR. SIG.

The negotiation of inland bills is in Scotland regulated by Statute 12 Geo. III., c. 72 One statutory rule is inconsistent with the custom of merchants in regard to foreign bills. It allows fourteen days to the holder to give notice of the dishonour. But protest is alike necessary in inland as in foreign bills on non-acceptance or non-payment; and otherwise, the rules of negotiation are the same.—SOC. SOL.

We would abolish all distinction, and make one uniform rule for all bills in the United Kingdom. We would hold notice essential in all cases, in order to preserve recourse against any one but the acceptor.—FAC. PROC.

It is much to be desired that the British Isles, including the Channel Islands, should form one country for legal purposes.—M. D. HILL.

I know no reason why such bills should not be considered inland bills.—A. BLAIR.

The doctrine that England, Ireland, and Scotland are foreign to each other with respect to their laws is altogether inconsistent with their being united into one kingdom of Great Britain and Ireland. Therefore a bill drawn in England on a party in Scotland or Ireland, and *vice versâ*, is an inland bill.—L. LEVI.

We think that England, Ireland, and Scotland should be considered parts of one United Kingdom, and that neither of them should be held a foreign country to the other. —DUBLIN CH. COMM.

We can see no good or sufficient reason why all bills drawn and payable in the United Kingdom should not now be considered as inland bills.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

This *dis*approved *in toto*. All bills drawn by or upon parties in the United Kingdom should be deemed *inland*, and notice to be substituted for protest.—BERWICK WATCH COMM.

English, Scotch, and Irish bills ought ought all to be treated as inland bills, and not subject to protest.—LAW OF D. & C. COMM.

No bill drawn within the limits of these islands upon persons resident within those limits, ought to be a foreign bill or require protest.—MANCHESTER CH. COMM.

(17. and 18.) All bills drawn on any part of the United Kingdom should be considered *inland* bills.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
18. Inland bills need not be protested for non-acceptance or non-payment.	Inland bills must be protested for non-acceptance or non-payment, to preserve recourse against the drawer and indorsers. 12 Geo. 4. c. 72. s. 41.

Your committee think the English rule better in this case, and would recommend its being extended to Scotland. They may observe that the English rule is that followed in the United States, and there seems no good reason why notice duly given to the drawer and indorser should not be held sufficient to preserve recourse.—FAC. ADV.

This Committee consider that the rule of Scotch law is preferable, and that there ought in all cases to be a protest to preserve recourse.—WR. SIG.

This in Scotland is a statutory rule, and is essential to the system of summary diligence. In fact summary diligence can only proceed on protest.—SOC. SOL.

We think a protest should be made indispenable in all cases, and the only evidence of due presentment for acceptance and payment. It is simple and efficient, and saves litigation.

The same answer applies to No. 12.—FAC. PROC.

This is absolutely necessary to authorize summary diligence.—CONV. ROYAL BURGHS.

See No. 17.—M. D. HILL.

The Scottish practice in this case has, I apprehend, reference to the subsequent form of recording the protest at the expiration of six months if the bill be not paid; but I presume the form could be altered, and the record or other proceedings be taken on the noting.—A. BLAIR.

Inland bills need not be protested except with a view to summary diligence. A protest, being a legal authentication of presentation and demand, is only required to establish the recourse with respect to foreign houses for foreign bills.—L. LEVI.

We prefer the law of E. and I.; the law of S. entails a useless expense.—DUBLIN CH. COMM.

The practice in England of only noting an inland bill for non-payment, from which a protest can at any time be obtained when necessary, answers extremely well and saves much expense; and it is thought therefore undesirable to make a a protest compulsory before diligence can be used, as in Scotland.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

BILLS AND NOTES.
Protest of inland Bills.

See No. 17.—LAW OF D. & C. COMM.
E. and I. right.—MANCHESTER CH. COMM.
See No. 17.—E. HEATH, LIVERPOOL CH. COMM.

BILLS AND NOTES.
Consideration.

ENGLAND AND IRELAND.	SCOTLAND.
19. Though bills and notes import consideration, yet the absence of consideration may be shown by any legal evidence.	The presumption of onerous consideration given cannot be rebutted otherwise than by the writing or oath of the holder.

Your committee are of opinion that it deserves consideration whether the English law should not be extended to Scotland, especially considering the recent alterations on the law of evidence.—FAC. ADV.

This Committee approve of the law of Scotland in this respect.—WR. SIG.

As noticed above (No. 15), this principle in the law of Scotland lies at the foundation of summary diligence and execution, and ought not to be altered.—SOC. SOL.

A majority prefer the English rule; the party challenging and suspending summary diligence being, however, bound to give security. Wherever the transaction is honest, the consideration can be proved. On the other hand, several of us prefer the Scotch rule, which has been found most useful in practice.—FAC. PROC.

The rule is the same in both countries; but in Scotland the only legal evidence is the writ or oath of the holder.—CONV. ROYAL BURGHS.

I prefer the English rule; but I think the making and negotiating accommodation bills and notes should be made a misdemeanor, as concocting and uttering false instruments.—M. D. HILL.

The affidavit of the plaintiff in an action may now be had in the witness-box, I apprehend, under the recent Acts, and therefore there does not seem any reason why the law should not be assimilated.—A. BLAIR.

The new rules of evidence render the law of England and Scotland on the subject alike. The *onus* of proving absence of consideration should rest on the acceptor.—L. LEVI.

We consider the law of E. and I. the proper one.—DUBLIN CH. COMM.

We think the law as it stands in England to be preferred in this respect, and would refer to the numerous trials which have taken place of late years for the purpose of recovering possession of bills obtained under pretence of being discounted but for which no value was given.—LEEDS CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

English law preferable as being more simply put, for the Scotch comes to much the same thing.—E. HEATH, LIVERPOOL CH. COMM.

BILLS AND NOTES.
Lost or stolen.

ENGLAND AND IRELAND.	SCOTLAND.
20. Proof that the bill had been lost, stolen or fraudulently obtained, throws upon the holder the onus of showing that he gave consideration for it.	Notwithstanding that the bill is shown to have been lost or stolen, the onus is on the party sought to be charged, to show that the holder gave no consideration.

Your committee think that the law of England is better here, and the principle is illustrated by the law in regard to debts arising out of gambling transactions.—FAC. ADV.

This Committee are of opinion that, looking to the great importance of supporting the system of settlement by bills, and the large transactions that now take place on the faith of bills, that the law of Scotland is preferable, and should not be altered.—WR. SIG.

It is doubtful how far an averment that the bill was stolen should be held relevant, unless it be also averred that the holder was privy to the act. We incline to think, that notwithstanding a general averment that the bill was stolen, the creditor should be entitled to the privileges of a *bonâ fide* holder.—SOC. SOL.

We prefer the English rule in practice. The point is somewhat analogous to theft of property. See No. 13.—FAC. PROC.

The want of consideration can only be proved by writ or oath of holder.—CONV. ROYAL BURGHS.

I prefer the English rule. Since the evidence of parties is receivable, the *onus* can scarcely be called a grievance.—M. D. HILL.

It seems to me that the law in England is more in conformity with the reasonable expectation that due diligence should be used in the negotiation of bills.—A. BLAIR.

It is just, that in case of loss of a bill, or where it has been fraudently stolen, it should rest on the holder to prove that he gave consideration for it. The party sought to be charged may not be able to prove the contrary, and yet he may be called on to pay to a wrongful holder.—L. LEVI.

We consider the law of E. and I. to be the proper law. An honest holder of a bill under such circumstances could not object to show that he gave value for it.—DUBLIN CH. COMM.

A *bonâ fide* holder of a bill which may have been stolen or fraudently obtained is in general much more easily able to show that he gave valuable consideration than the

party sought to be charged can show that he did not; and therefore the law as it is in England, it is the opinion, ought not to be altered.—Leeds Ch. Comm.

Bills and Notes.
Lost or stolen.

Assimilate to England and Ireland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

E. and I. right.—Manchester Ch. Comm.

English law right.—E. Heath, Liverpool Ch. Comm.

ENGLAND AND IRELAND.	SCOTLAND.
21. Minors cannot become parties to bills or notes, so as to render themselves liable to an action during minority, or after majority unless they confirm them.	Minors engaged in trade may become parties to bills and notes, in the course of their business, so as to render themselves liable without the concurrence of their curators.

Bills and Notes.
Minors.

Your committee are of opinion that it is for the advantage of commerce that if minors do engage in trade, they should be held liable on bills and notes to which they become parties in the course of their business, though without concurrence of curators. They therefore think that the law of Scotland on this point should be extended to England.—Fac. Adv.

This Committee approve of the law of Scotland If minors are allowed to engage in trade, they ought to be liable for any bills or notes to which they may become parties.—Wr. Sig.

So long as minors are permitted to engage in trade, (and it is understood there is no law against it in England or Scotland), it is only reasonable that their creditors, dealing with them in *bonâ fide*, and receiving their bills and notes in the course of business, should be allowed to pursue the ordinary remedies to enforce payment. Any other rule would, we humbly think, be encouraging minors in committing frauds.—Soc. Sol.

We think the Scottish rule preferable, as, if minors get the privileges of traders, they ought to incur the liabilities of traders; but the rule ought not to be extended beyond pure business transactions. We understand that some cases of great hardship have occurred in England. See No. 59.—Fac. Proc.

Right that it should be so, otherwise such parties ought to be prohibited from trading.—Conv. Royal Burghs.

I prefer the Scotch rule.—M. D. Hill.

It seems to me reasonable that minors should be liable for their engagements in trade, with perhaps this reserve, that they may not be liable to an action, if they can prove against the plaintiff a knowledge of minority.—A. Blair.

See No. 59.—L. Levi.

We think the law of E. and I. to be the proper law. Public policy and social interests require that minors should be protected against themselves as well as against others.—Dublin Ch. Comm.

The practice of Scotland seems more consistent with justice in the case of minors and married women engaged in trade than that of England.—Leeds Ch. Comm.

Assimilate to Scotland,—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

The Boards considers the Scotch a better provision than the English.—Manchester Ch. Comm.

ENGLAND AND IRELAND.	SCOTLAND.
22. In general, married women cannot be parties to bills or notes, so as to sue, or be sued upon them.	A married woman, whose husband has left Scotland, carrying on business apart from him, may become a party to bills or notes in that business, so as to sue and be sued upon them. See Churnside *v.* Currie, 2 Bell's Comm., 167.

Bills and Notes.
Married women.

Your committee are of opinion that the law of Scotland in regard to bills by married women; as here stated, should be extended to England.—Fac. Adv.

This Committee also approve of the law of Scotland in relation to the obligation of married women as here mentioned, and would recommend its adoption in England.—Wr. Sig.

The law of Scotland has carefully guarded married women against liability upon personal obligations. The general rule is "that she is incapable of legal obligation, and it has been exemplified in many cases, according to almost every test." (Professor Bell's Principles, 4th ed., sec. 1611.) The case of *Churnside* against *Currie*, 1789, is an exception to the general rule intended for the benefit of married women, who have been abandoned by their husbands. This exception was carefully reconsidered and confirmed in *Orme* v. *Diffors*, Nov. 30, 1833, 12 s. 149.—Soc. Sol.

We prefer the Scotch rule. The case is rare and the expediency of compelling a party who carries on business to pay obligations contracted in the course of it is obvious. The reason stated in the preceding article is applicable.—Fac. Proc.

BILLS AND NOTES.
Married Women.

See observation on No. 21.—CONV. ROYAL BURGHS.

I prefer the Scotch rule.—M. D. HILL.

If the Scottish practice does not come under the reserved specialty in England, I think it should be introduced.—A. BLAIR.

See No. 60.—L. LEVI.

We think the law of S. just and equitable, and we have known cases in which the law of E. and I. has has led to very great fraud.—DUBLIN CH. COMM.

See No. 21.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

S. quite right and proper.—MANCHESTER CH. COMM.

Scotch law best.—E. HEATH, LIVERPOOL CH. COMM.

BILLS AND NOTES.
Corporations

ENGLAND AND IRELAND.	SCOTLAND.
23. In general, corporations can bind themselves under seal only, and therefore they cannot be parties to bills or notes.	Corporations may by the signature of their office-bearers become parties to bills or notes. Thomson on Bills, 216.

Your committee think that the law of Scotland is too broadly stated here. They are disposed to think that there is no sufficient authority for holding that corporations in general are liable on bills and notes granted by their office bearers, except when such office-bearers have been duly authorized to grant such documents by the corporation.—FAC. ADV.

This Committee understand that corporations are only liable in bills or notes signed by their office-bearers, where the office-bearer or party signing has power so to bind the corporation. If they are right in this view of the law, they think it is one which should not be altered.—WR. SIG.

There seems to be no good reason why corporations should not be entitled, by the signature of their office-bearers, or an authorized officer, to become parties to bills. Such has long been the practice in Scotland, unless where by statute creating the corporation, it is prohibited.—SOC. SOL.

This involves the question, how and in what form corporations ought to bind themselves. We see no reason why the act of a corporate officer on behalf of his corporation, duly authorized, or, if within the scope of his authority, in whatever form, should not bind the corporation. No bad results, but, on the contrary, great facilities have followed from corporations granting bills in Scotland.—FAC. PROC.

Right that it should be so.—CONV. ROYAL BURGHS.

The general disuse of the seal all over the world makes it high time to get rid of it for legal purposes. Corporations engaged in trade, or in concerns in which bills are commonly issued, may now bind themselves by such instruments. The only question, as I think, should be—Had the officer signing the bill due authority ?—M. D. HILL.

I am not aware that there is a difference between the practice of Scotch and English trade corporations as regards bills and notes ; there may be as regards deeds.—A. BLAIR.

Where a partnership or a corporation is constituted or recognized as a separate or moral person, it should be able to become a party to bills or notes by the signature of its office bearers.—L. LEVI.

We prefer the law of E. and I. Municipal or other corporate bodies should have the most effective securities against fraud or indiscretion on the part of their representatives.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Save in the case of Banking Corporations, the English and Irish law preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

S. approved.—MANCHESTER CH. COMM.

Scotch law best.—E. HEATH, LIVERPOOL CH. COMM.

BILLS AND NOTES.
Limitation and Prescription.

ENGLAND AND IRELAND.	SCOTLAND.
24. Proceedings to enforce payment of a bill or note, must be taken within six years after the time at which it became payable, if not revived by acknowledgment. 21 Jac. 1. c. 16. s. 3. (England.) 10 Car. 1. sess. 2. c. 6. (Ireland.)	An action to enforce payment of a bill or note must be raised within six years after the sum has become exigible. But after the expiration of the six years, it is competent to raise an action for the debt for which the bill or note was granted, and to prove that the sum is owing by the writing or oath of the debtor.

Your committee do not think that any practical inconvenience arises from the differences of law here stated, and approve of the law of Scotland on this subject.—FAC. ADV.

This Committee approve of the rule of the law of Scotland, and would recommend that it should be extended to England. It seems to them that the very statement of the law carries with it its justification.—WR. SIG.

This is a statutory regulation (12 Geo. III., cap. 72.) Any acknowledgment granted by the debtor in the bill during the currency of the six years cannot revive or perpetuate the legal existence of the bill beyond the six years; and it seems essential to commerce that documents possessed of such extraordinary privileges should have a definite period of existence.

The second part of this statement of the Scotch law is also statutory, and it seems to be sufficient for the protection of the interests of both parties that, as the bill has lost its quality of being probative, the debt, which must have come into existence at least six years before, should be proved by the writing or oath of the debtor only.—SOC. SOL.

As regards the form of the action there is little practical difference; even in Scotland it has been held that an action may be raised simply for the prescribed bill (Christie v. Henderson, June 19, 1853—11 Shaw, 744), but the decisions are not uniform.

The next important point in this query is affected by the rule to be adopted as to *Prescription*,—whether the distinction between *prescription*, as operating only on the mode and burden of proof, or as *absolutely extinguishing* the debt, is to be maintained. If prescription shall only affect the mode and burden of proof, we think that, on the expiration of the prescribed period, the debt should only be proveable by the debtor's writ or oath.—FAC. PROC.

We prefer the Scottish law on this point.—CONV. ROYAL BURGHS.

Every acknowledgment in writing clearly importing, either by express words or by fair implication, that a debt exists unsatisfied should, I think, take it out of the statute of limitations; but to revive the debt by the compulsory oath of the debtor is, I think, offering a dangerous temptation to perjury in regard to transactions long past.—M. D. HILL.

Lapse of time renders limitation of the right of action necessary, and the limitation should take effect on debts constituted by bill. If, then, the right of action be unlimited in Scotland, the law should be altered, if it extends to a certain period after the six years; the question is merely the duration of right, which in my opinion may reasonably be confined to six years if not revived.—A. BLAIR.

See Limitation No. 34. *et seq.* In France, proceedings to enforce payment of bills or notes must be taken within five years from the day the bill was protested; yet the debtor may be called to prove by oath, that the sum is no more owing.—L. LEVI.

We prefer the law of E. and I.: if we are to have a statute of limitations at all, this is the most equitable arrangement.—DUBLIN CH. COMM.

The English law is thought preferable, as being more simple and determinate. Where parties neglect to use the means placed in their own hands there seems little reason to revise claims in their favour.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Subject to the modification stated in No. 34, the Scotch law upon the whole preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

Scotch law best.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
25. Notice of dishonour by non-acceptance or non-payment must be given within a reasonable time. Reasonable time is, in the general case, the next post after the day of dishonour.	Notice of dishonour given within fourteen days is sufficient to preserve recourse against the drawer and indorsers.

Your committee are of opinion that the English rule in this case is the best, and ought to be extended to Scotland; the present rule in Scotland in regard to inland bills being statutory, and contrary to the law in regard to foreign bills.—FAC. ADV.

This Committee approve of the rule of the English law, with this addition, that they think three days should be allowed for giving notice, and they would recommend that the law of Scotland should be altered accordingly. Reasonable time may be indefinite.—WR. SIG.

This statutory rule in the law of Scotland allowing fourteen days wherein to give notice of dishonour of inland bills should be altered, and the rule made the same as in England "within a reasonable time,"—meaning, according to the custom of merchants, the post of the following day.

The construction put upon the statute (12 Geo. III., c. 72) is inconsistent with the law merchant. If there be several indorsers upon a bill, the holder is held bound to intimate dishonour within fourteen days to the last indorser only, who is bound to intimate to the immediately preceding indorser, and so on through the whole, so that it may be three weeks or a month before the drawer, the party chiefly interested in the dishonour, receives notice.—SOC. SOL.

We think fourteen days too long a period for giving notice, and prefer the English rule, which is, indeed, the rule at present in Scotland, where the notice has to be given by any one except the *last* holder. It may be a question, whether it would not be better that the time should be defined (say to twenty-four or forty-eight hours) by statute.—FAC. PROC.

BILLS AND NOTES.
Notice of dishonour.

This period ought to be shortened to a period not exceeding three days, and a *fixed term* introduced in place of the vague "*reasonable time.*"—CONV. ROYAL BURGHS.

I much prefer the English rule.—M. D. HILL.

I recommend the adoption of the English rule.—A. BLAIR.

With the prompt and certain means of communication now existing to all parts of the world, the delay of fourteen days to give notice of dishonoured bills is not required. The English rule, which requires notice to be sent by first post, is preferable. In Holland, notice must be given with five days, if the parties reside in the same *commune ;* if not, by the first post, or if the post is not regular, by the first opportunity after the five days (Dutch C. 184). In France, the bearer has 15 days from the date of protest, for those who reside within the distance of five myriametres, and one day longer for every two myriametres for those who reside at greater distance.—L. LEVI.

We prefer the law of E. and I., as best calculated to secure mercantile diligence, and the earliest notification to a creditor, that his debtor has not discharged his debt, and that he himself has incurred perhaps unexpected responsibility.—DUBLIN CH. COMM.

The English law is thought preferable in this respect to that of Scotland, and more calculated to prevent loss.—LEEDS CH. COMM.

Time for notice of dishonour in England and Ireland too *short* and indefinite ; and in Scotland too *long ;* should be, say *three* days.—LEITH CH. COMM.

English and Irish approved and preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

The practice of the London Bankers of notifying the day after might be extended safely to all cases of dishonour.—E. HEATH, LIVERPOOL CH. COMM.

BILLS AND NOTES.
Protest.

ENGLAND AND IRELAND.	SCOTLAND.
26. An inland bill *may* be protested for non-acceptance or non-payment, 9 & 10 Will. 3. c. 17. and 4 Anne, c. 9., (England), 9 Geo. 4. c. 24. s. 1. (Ireland), but it is not imperative, and in practice a protest is seldom made.	Protest on the dishonour of an inland bill by non-acceptance or non-payment is indispensable to preserve recourse against the drawer and indorsers.

Your committee, referring to their remarks on Art. 18, recommend the adoption of the English law, as here stated, in so far as regards the preservation of recourse.—FAC. ADV.

(26 and 27.) This Committee are of opinion that the law of Scotland is the preferable rule, and should be adhered to.—WR. SIG.

Protest is the only legal evidence admissible in Scotland of non-acceptance or non-payment. Reference is made to Nos. 15, 18, and 19 above.—SOC. SOL.

We approve of the Scottish rule. (See remarks, No. 18.) We see no reason for any distinction such as exists in England.—FAC. PROC.

We prefer the Scottish rule.—CONV. ROYAL BURGHS.

I prefer the English rule ; indeed, I much doubt the value of the protest at all, either as to English or foreign bills.—M. D. HILL.

Refer to No. 18.—A. BLAIR.

See No. 18.—L. LEVI.

We prefer the E. and I. law (see No. 18.)—DUBLIN CH. COMM.

See answer to No. 18.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred. Notice to be substituted for noting and protesting.—BERWICK WATCH COMM.

See No. 17.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

English law best. See Nos. 17. and 18.—E. HEATH, LIVERPOOL CH. COMM.

BILLS AND NOTES.
Proof of presentment.

ENGLAND AND IRELAND.	SCOTLAND.
27. Proof of presentment may be made by oral evidence.	Presentation cannot be proved by parole evidence, but by notarial protest only.

Your committee are of opinion that the English law, as here stated, may with advantage be extended to Scotland, in so far as regards the preservation of recourse.—FAC. ADV.

See No. 26.—WR. SIG.

See No. 26.—SOC. SOL.

The same remark applies here. The protest is the simplest and safest form of notice, and most efficacious in practice.—FAC. PROC.

We prefer the Scottish rule.—CONV. ROYAL BURGHS.

I prefer the English rule.—M. D. HILL.

Technical difference of the law ; see No. 18.—A. BLAIR.

With regard to inland bills any legal evidence of presentation and demand seems sufficient, but as to foreign bills, they should be protested for non-acceptance or non-payment.—L. LEVI.

We prefer the E. and I. law.—DUBLIN CH. COMM.

BILLS AND NOTES.
Proof of presentment.

There are many towns in England where no notary exists; oral evidence of presentation could not be abolished, therefore, at present.—LEEDS CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

Oral evidence sufficient; or at least noting without protest.—E HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
28. A bill is not negotiable if it be not made payable "to order" or "to bearer."	A bill is negotiable, though not expressed to be payable "to order" or "to bearer."

BILLS AND NOTES.
Form.

Your committee think that in this case the Scottish law is most equitable and convenient, and ought to be extended to England.—FAC. ADV.

The rule of the law of Scotland seems most convenient, and should be extended to England.—WR. SIG.

The Scotch rule seems preferable.—SOC. SOL.

We see no use in requiring these words: the object of a bill is negotiation.—FAC. PROC.

We prefer the Scottish rule.—CONV. ROYAL BURGHS.

I prefer the English rule. Why should a bill be negotiable unless the parties mean that it should be so; and how is the meaning of the parties to be collected, except by the terms of the instrument.)—M. D. HILL.

I recommend the English rule.—A. BLAIR.

The words "to order" or "to bearer" do not seem to me to be necessary to the negotiability of a bill. Once a sum has been assigned to the payee's use, he acquires a right of possession and with it a right of disposal over which the drawer or indorser can have no control.—L. LEVI.

We prefer the E. and I. law: there are frequently reasons agreed to by the payer and payee of a bill, for confining the payment to the payee stated in the bill, and the payee should not be allowed to break his contract.—DUBLIN CH. COMM.

It is no uncommon thing for a party to give a bill on the express understanding and with a specific intention that it should not be a negociable instrument, and there seems no reason why he should not be able to do so where both parties are agreed.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

English law safest.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND
29. Payment can be enforced by an action only. Upon non-appearance of the defendant within eight days of the service of a writ of summons specially indorsed, execution may issue after eight days from the last day for appearance; but if the defendant appear, the plaintiff can recover only by proceeding with his action. 15 & 16 Vict. c. 76. s. 27. (England). 16 & 17 Vict. c. 113. s. 96. (Ireland), contains a somewhat similar provision.	Summary diligence or execution to enforce payment is competent after registration of the protest within six months.* The debtor may obtain suspension of the diligence, on cause being shown to the satisfaction of the Court of Session; but, in the general case, only on the terms of obtaining a cautioner.

BILLS AND NOTES.
Remedy.

There is an inaccuracy in the statement of the law of Scotland on this point. Summary diligence on bills and notes is competent when they have been duly protested, and the protest has been registered within six months from the date of the bill for non-acceptance, and from the date of payment for non-payment. Your committee think this rule more convenient than the law of England, as here stated.—FAC. ADV.

This Committee are of opinion that the law of Scotland as to the remedies for enforcing payment of bills or promissory notes, are more convenient than those of England, and should be adhered to. At the same time they do not think the law is clearly stated in this query. The protest must be recorded within six months of its date to authorise summary diligence. When the protest is recorded, summary diligence may proceed any time thereafter.—WR. SIG.

The first part of this statement of the law of Scotland is statutory. The decree of registration upon the protest must be taken within six months from the term of payment in order to preserve the privilege of summary execution

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* In the copies issued to respondents these words stood (by mistake), "within six months after registration of the protest."

BILLS AND NOTES.
Remedy.

When the debtor disputes his liability in a suspension, the legal presumption being in favour of the creditor holding a probative instrument capable of being redargued only by *his* writ or oath, the debtor is called on, as a condition of being heard, to consign the amount in the bill, or to find caution for its payment if the suspension be refused.

These rules should not be altered; they have been in operation in Scotland for about eighty years, and form a valuable branch of the mercantile law for recovery of bill debts.—SOC. SOL.

The Scottish system has been found most valuable in practice, and we understand a Bill was introduced into Parliament to extend its advantages to England.

The practice of requiring caution is an excellent check on evasive attempts to get quit of bills, or obtain delay in payment. All obstruction to enforcing payment ought to be removed as far as possible.—FAC. PROC.

This is not a correct statement of the law of Scotland, on this point.

If the protest be recorded within six months of the last day of grace, summary deligence may be executed at any time within six years of the day the bill fell due,—*and the diligence remains effectual for forty years.*—CONV. ROYAL BURGHS.

I understand the experience of Scotland to have proved that, in a vast majority of cases, it is safe to assume that the signature to a bill or note is genuine. If so, I can see no reason against a summary proceeding, care being of course taken to give facilities to the defendant for reopening the question or questions between himself and the plaintiff within a reasonable time. I assume it as an axiom, that legal proceedings ought to be as rapid and succinct as is consistent with arriving at the truth. And if it shall be found that it is safe to treat all instruments regular upon the face of them as genuine and duly executed *primâ facie*, a prolific source of delay and expense will be dried up; and further, I think the experiment may be judiciously tried on bills of exchange and notes. These are simple instruments presenting no difficulties of construction, dealing with liquidated claims; and having regard to the immense number of these instruments in daily circulation, we may say, it rarely happens that any just reason exists why they should not be enforced.—M. D. HILL.

I am not aware of an practical inconvenience or hardship from the Scottish law; but from the extensive circulation of bills in England perhaps some slight modification of the Scottish law may be deemed necessary if, as I suppose will be the case, it is introduced into England.—A. BLAIR.

The method of summary diligence or execution allowed in Scotland on bills appears a natural proceeding on such a document, which is in itself a conclusive evidence of debt; provided however, sufficient opportunities are allowed to the acceptor or endorsers in case of fraud or for valid reason to arrest further proceedings.—L. LEVI.

A bill is now in progress through Parliament for extending the process of "summary diligence" to England, and we see no reason why it should not also be extended to Ireland; but great care should be taken not to allow any encroachment on the distinct and independent jurisdiction of the respective courts of law and equity in the three countries.—DUBLIN CH. COMM.

It is very desirable that the Scotch and English laws should be assimilated in this respect, in conformity with the Bill now before Parliament for the purpose.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch approved, with modification, viz., that instead of protesting, a register of the bill or note (like a register of judgments), shall be made in all cases where diligence or execution is intended to be resorted to within six months of its becoming due.—BERWICK WATCH COMM.

Scotch adopted, if the summary diligence be confined to the maker or acceptor of the note. The Committee was not unanimous upon the adoption of summary diligence.—LAW OF D. & C. COMM.

An Act of the present session, which assimilates the practice in both countries, would seem to annul this question.—MANCHESTER CH. COMM.

Scotch law best.—E. HEATH, LIVERPOOL CH. COMM.

	ENGLAND AND IRELAND.	SCOTLAND.
BILLS AND NOTES. *Overdue.*	30. Indorsee of a bill overdue takes it subject to all the equities and objections to which it was subject in the hands of the indorser, as far as they are intrinsic to the bill, but not subject to collateral matter, such as a right of set-off against the former holder.	The indorsee of a bill overdue is not subject to latent objections attaching to the bill, if there be no marks of dishonour on the bill and nothing suspicious in the transaction.

The English law, as here stated, appears to your committee to be the most equitable, as they cannot consider a bill indorsed when overdue as free from suspicion—FAC. ADV.

This Committee approve of the English law in this particular; they conceive all indorsations of a bill over-due are liable to suspicion.—WR. SIG.

The English rule seems preferable.—SOC. SOL.

We prefer the English rule. The very nonpayment taints the bill, although it bears no marks of dishonour. If there are no good objections to its being therefore transferred, the honesty of the transaction can easily be proved.—FAC. PROC.

We demur to this being the law of Scotland, but if it is, the English rule seems preferable.—Conv. Royal Burghs. Bills and Notes.

Overdue.

Among the various means calculated to produce a healthy state of commerce none is more important than a habit of punctuality in meeting engagements. I have therefore great doubts whether bills over-due ought to remain negotiable instruments; and I prefer the English rule to the Scotch, because it offers a discouragement to their further circulation.—M. D. Hill.

I think the English law is to be preferred, for every one can provide against the possible contingencies attached to giving consideration for an overdue bill; but the acceptor, in case of fraud or other objections, may be barred from his defence by the extended circulation of the instrument beyond its term.—A. Blair.

A bill overdue has on the face of it evidence either of neglect on the part of the holder or of objections on the part of the acceptor, and an indorsee of such a bill must be understood to take it subject to such objections or equities, except those which are extrinsic to the bill.—L. Levi.

We prefer the E. and I. law. It is obviously the more equitable; the taker of an overdue bill is forewarned.—Dublin Ch. Comm.

There seems no sufficient reason why the indorsee of an overdue bill should stand in a better position than the indorser, except so far as retaining his claim on the original debt is concerned, since he may at once refuse to take it. The claims arising out of the same instrument should, we think, in all cases be as simple and uniform as possible.—Leeds Ch. Comm.

Assimilate to England and Ireland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

E. and I. right.—Manchester Ch. Comm.

The English practice should be retained.—E. Heath, Liverpool Ch. Comm.

ENGLAND AND IRELAND.	SCOTLAND.
31. Acceptance of an inland bill must be in writing on the bill. But the name of the acceptor need not be signed.	A written promise on a separate paper to accept a bill amounts to acceptance so as to ground an ordinary action, and complete the bill as an assignment, though not so as that summary diligence may be used.

Bills and Notes.

Acceptance of inland bill.

Your committee think that the effect of a separate written promise to accept a bill is by the law of Scotland by no means so free from doubt as here stated. The statute 1 and 2 Geo. IV., cap. 78, which enacts that "no acceptance of any inland bill of exchange "shall be sufficient to charge any person, unless such acceptance be in writing on such "bill," extends to Scotland. But they are of opinion that acceptance of a bill, whether inland or foreign, ought to be in writing, signed, and on the bill, and no other acceptance ought to be recognised. They observe that English Judges have repeatedly expressed regret that any other mode of acceptance should have been sustained.—Fac. Adv.

(31 and 32.) This Committee are of opinion that no acceptance of a bill should be recognized which is not in writing, and signed on the bill itself.—Wr. Sig.

In Scotland the bill is not completed as a document of debt unless the acceptor's signature be on the face of it. A written promise to accept is a separate engagement, and may be made the foundation of an ordinary action for the contents of the bill.

It is difficult to understand how, by the law of England, a bill can be held to have been accepted, though not signed by the acceptor, as it wants an essential to its existence as a legal obligation. The Statute 1 & 2 Geo. IV. c. 78, sec. 2, enacts that "no acceptance of any inland bill of exchange shall be sufficient to charge any person unless such acceptance be in writing on such bill."—Soc. Sol.

We think that acceptance in writing, and subscribed by the party, should be the only legal acceptance, and essential to make the document a *bill;* when not so accepted, it will be better to treat it only as a simple voucher of debt.

The non-requirement of the written acceptance and signature has, in our humble opinion, led to some, what we would call, strange decisions in England; and we understood that a special statute had been passed, making acceptance by writing on the bill imperative.—Fac. Proc.

Such written promise is a separate obligation entirely.—Conv. Royal Burghs.

I prefer the Scotch rule. A promise to accept should not be treated as a nullity; but it differs from an acceptance in essentials,—first, because a promise to do a future act is more readily obtained by influence than the performance of the act itself; and, secondly, because many circumstances may arise, after the promise has been given, to justify the promisor in not performing it.—M. D. Hill.

I think the English law is more in conformity with the character of bills of exchange, being instruments vested with certain well defined privileges, which, as I understand, causes a court to be jealous of evidence extrinsic of the instrument itself. The Scottish written promise may, as an assignment, be a ground of action in Scotland; but it seems to me irregular to call it an acceptance of a bill. For the reasons stated I think in England an acceptance to be valid ought to be signed by the acceptor.—A. Blair.

BILLS AND NOTES.
Acceptance of inland bill.

A bill of exchange should not be deemed accepted unless the name of the acceptor is signed on the bill.—L. LEVI.

The acceptance should be in writing on the bill, but the signature of the acceptor should always be indispensable, else there is no protection against a dishonest clerk.—DUBLIN CH. COMM.

It is thought the acceptance, to prevent any quibble or dispute afterwards, should be absolute, and whether on inland or foreign bills should be on the bill itself.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred, save that the signing of the name of acceptor should be required.—BERWICK WATCH COMM.

E. adopted, subject to the signature of the acceptor to the acceptance.—LAW OF D. & C. COMM.

E. and I. right; but the name of the acceptor ought to be required to be signed.—MANCHESTER CH. COMM.

(31. and 32.) The practice should be *uniform* in both cases, and the *signature* should be present, or, if absent, the words of acceptance should be in the own handwriting of the acceptor.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
32. Acceptance of a foreign bill may be verbal or detached.	Proof of a verbal promise to accept a bill is incompetent as to foreign as well as inland bills.

BILLS AND NOTES.
Acceptance of foreign bill.

See No. 31.—FAC. ADV.

See No. 31.—WR. SIG.

See No. 31. Oral testimony is rejected in Scotland to supply the want of written acceptance, and it humbly appears, that the English rule of admitting verbal or detached acceptances must be attended with danger.—SOC. SOL.

See No. 31.—FAC. PROC.

The Scottish rule is preferable, and any other would entirely overturn our law as to diligence, which has worked so well.—CONV. ROYAL BURGHS.

It could be wished that the law regarding bills of exchange and other commercial instruments could be assimilated all over the world; but I see no reason why the rules regarding foreign bills should be less strict than as regards inland bills. If any difference be made, it should, I think, be the other way.—M. D. HILL.

I do not see any reason why the law should be different as regards the acceptance of inland and foreign bills.—A. BLAIR.

The same rule should apply to foreign and inland bills.—L. LEVI.

We prefer the law of S., considering that all acceptances should be in writing on the bill.—DUBLIN CH. COMM.

See No. 31.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

It is desirable to assimilate the law relating to inland and foreign bills. See No. 31.—LAW OF D. & C. COMM.

The Scotch would seem to be the proper principle.—MANCHESTER CH. COMM.

See No. 31.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
33. The liability of any party to a bill or note may be discharged *orally* before it becomes payable. Foster *v.* Dawber, 6 Exch. 839. And perhaps after it has become payable. Ibid, p. 851.	Express discharge of any party to a bill or note from liability upon it can only be proved by writing, or oath on reference.

BILLS AND NOTES.
Discharge of liability.

Your committee are of opinion that the Scottish rule of law as here stated is the best, and ought to be extended to England.—FAC. ADV.

This Committee approve of the rule of the law of Scotland, and are of opinion that the same should be extended to England.—WR. SIG.

The same rule is applicable to this particular, which requires that a bill can only be discharged by the writ or oath of the creditor. Reference is again made to Nos. 15, 18, and 19.—SOC. SOL.

We prefer the Scotch rule, and think that a written document (especially *a negotiable one*) ought either to be delivered up or discharged in writing. The oath of party is equally good, because then the proceeding is of record.—FAC. PROC.

The Scottish rule is preferable. The English seems framed to give rise to lawsuits.—CONV. ROYAL BURGHS.

I think there is dangerous laxity in the English rule, and that the discharge should be in writing.—M. D. HILL.

If a party be discharged orally from his obligation on a bill, his witness may die or be otherwise incapable of giving evidence; it therefore seems that a written discharge is required for the safety of all parties.—A. BLAIR.

BILLS AND NOTES.

Discharge of liability.

As between the parties to a bill, oral discharge of liability may be sufficient if legally proved; not, however, so with respect to the holder of the bill.—L. LEVI.

We consider that a discharge of a party to a bill should always be in writing.—DUBLIN CH. COMM.

Express discharge of any party to a bill or note should be formal and complete, and therefore in writing, but should not of course operate against third parties.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted, omitting "or oath on reference."—LAW OF D. & C. COMM.

Scotch law safest.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
34. All remedy by action or suit to enforce payment of a debt ceases (in the absence of acknowledgment or part payment,)— 1. If the claim rest on a document under seal, or on a judgment, at the end of twenty years— 2. If the claim rest on a document not under seal, or on a verbal contract merely, at the end of six years, from the time at which the right to sue first accrues; except in cases of disability.	All legal remedy to enforce payment of a debt does not cease until the end of forty years from the time at which the right first accrues. Parole proof, bills of exchange, and writings not attested although* holograph, cease to be available at the end of certain shorter periods, varying according to the subject matter from three years to twenty years. But proof by other writings under the debtor's hands, or by reference to the oath of the debtor, may be made up to the end of the forty years.

LIMITATION AND PRESCRIPTION.

Period.

The word "*not*" preceding the word "*holograph,*" appears to have been inserted here by mistake, and the statement is, in other respects, not quite accurate.

It might be more correctly expressed thus:—"Parole proof, bills of exchange, and "writings not attested, although holograph, cease to be available at the end of certain "short periods, varying according to the subject-matter from three years to twenty years, "in support of claims falling under the several short prescriptions noted below. But proof "by other writings," &c.—FAC. ADV.

In this branch of the law, this Committee are decidedly of opinion that it would be advisable to assimilate the rules in the two countries. They humbly conceive that in so far as the Scotch law is concerned, there are too great a number of periods of limitation or prescription, and that it would be better to simplify and condense them. With these general remarks they would observe,—

There is a verbal inaccuracy in the statement as to the Scotch law as here stated. It ought to be writings not attested, although holograph.—WR. SIG.

We are humbly of opinion that the state of the law of Scotland in this important department is susceptible of much improvement. "Prescription" being an adjunct of the "remedy," it is inexpedient and injurious to the interests of trade that rules differing so widely should exist in the same kingdom.

The prescriptions known in the law of Scotland might be readjusted and assimilated to the English law, which appears to us to be more simple, and better adapted to a commercial country.

The negative prescription of forty years, so far as applicable to personal claims, rights, and contracts, should be reduced to twenty years.

The vicennial prescription applicable to holograph letters and bonds without witnesses should be reduced to six years.

The triennial, quinquennial, and sexennial prescriptions should be made an uniform period of six years.

All claims falling under the proposed period of six years should, after the lapse of that period, be capable of proof by the writ or oath of the debtor, during the proposed negative prescription of twenty years.

It has to be noticed that "a continuing lien on the property of the debtor," in the hands of the creditor, would not, it is thought, operate as an interruption to prescription in Scotland; but we see no objection to such a rule being introduced by statutory enactment.—SOC. SOL.

Generally, the subject of prescription requires great consideration. All rules of prescription are, from their very nature, purely arbitrary, and all predilections should be abandoned for the sake of obtaining uniformity, and getting rid of conflicting systems in the different divisions of the kingdom. With regard to the prescriptions existing in the law of Scotland, we may remark that their variety has in some instances given rise to numerous and intricate litigations.

The first point which is suggested is, whether the prescription applicable to a particular description of debt should absolutely extinguish it, as appears to be the rule in England, —at least, to the effect of depriving the creditor of all remedy by action to enforce pay-

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* In the copies issued to respondents the word "not" stood before "holograph" (by mistake).

LIMITATION AND PRESCRIPTION.

Period.

ment,—or whether it should only operate as to the mode of proof of the existence, resting owing, and payment of the debt, and the party on whom the burden of proof lies, as in several of the minor or short prescriptions in Scotland.

We are not unanimous on this point, but the majority inclines to the adoption of the simpler rule, which is undoubtedly that of England, while the minority is in favour of still allowing the creditor to establish his debt by the writ or oath of his debtor; such writ bearing date (as hereafter explained) subsequent to the period of prescription.

Leaving this general question, and also excluding land-rights, there are two principles which might be adopted as the basis of the rule of prescription in mercantile and ordinary transactions:—

I. According to the nature of the debt or obligation; and

II. According to the mode of constitution; as (1) by writing, decrees of Court, &c., and (2), accounts, verbal transactions, &c.

I. *According to the nature of the Debt.*

Generally, we consider forty years as too long for extinguishing ordinary debts constituted by writing, and even decrees of Courts as well as judicial caution. We also think that extra-judicial cautionary obligations should prescribe in a shorter period than seven years. Cautioners for a bankrupt's composition are, by 2 & 3 Vict. c. 41. s. 120., in certain specified cases, not bound for more than two years. The sexennial prescription of bills has been found in practice to answer all mercantile purposes. We see no reason for the distinction between quinquennial and triennial prescription of book debts, bargains as to moveables, &c. It has occurred to some of us that a quadriennial or quinquennial prescription, applicable alike to bills, books debts, cautionary obligations, &c., might perhaps be adopted, and thereby introduce a uniform rate of short prescription into our practice. Uniformity seems to us of importance to the public in such a matter.

II. *According to the mode of Constitution.*

(1.) Debts and obligations constituted by writing and *decrees.*

We consider that the prescriptive period should extend from twenty to thirty years; with the exceptions, (1), of cautionary obligations, and, (2), of writings in *re mercatoriâ*; the periods in which would be shorter than in other writings.

(2.) Accounts, verbal transactions, &c.

We think the periods should not exceed four or five years, and should be uniform.

We think that a dangerous and illogical principle has been recently adopted in Scotland of holding that any writing, whether originally constituting or admitting, *ex intervallo*, the existence of the debt within the prescriptive period of three years, will constitute the debt, and that thereafter the subsistence or non-extinction of the debt only becomes the question.

The English rule seems to be much more sound—that all within the period is sunk and lost, and that the revival must be made after that.

These general remarks apply to Nos. 34 and 35.—FAC. PROC.

The doctrine of prescription is one of much importance, and would require great consideration before giving an opinion.—CONV. ROYAL BURGHS.

I think the whole doctrine regarding limitations and terms of prescription requires revision, both with reference to realty and personalty. In former times, the progress of affairs was slow, being much impeded by difficulty and uncertainty of communication. Long terms of prescription were in unison with such a state of things. But they are not in harmony with modern habits and arrangements. One-half, or even one-third of the periods in present use would, I think, be amply sufficient. Where a claim is unsupported by written evidence, it should, I think, be barred in two years. The production of evidence in writing should extend the period to four years; the production of a written obligation, which ought to be cancelled or to have passed into the possession of the obligor on satisfaction of the debt, &c., might extend the period to six or even ten years. The same of judgments.—M. D. HILL.

The main difference between the two laws is, that in England the debt is never extinguished, while in Scotland it is extinguished at the end of forty years; that in England the right of action ceases at the end of twenty years and six years respectively, according to the nature of the claim; whereas in Scotland the right of action remains during the period of forty years upon other proof than that of the instrument or document of debt. This difference appears to arise from the mixed character of the Court of Session. I did not know that the Scottish law occasions inconvenience, but I prefer the English as interfering less with the natural rights of parties, and defining more strictly their legal rights.—A. BLAIR.

Admitted that a period should be fixed after the lapse of which the creditor loses the right to exercise his remedy by action, it is important to have such a period clearly held out. The Scotch rules of prescription are reasonable, but rather complicated. Six years is generally a just period of time to allow creditors to maintain their rights, even in the absence of acknowledgment or part-payment. In most cases the delay may result from forbearance, and perhaps mutual agreement, though not written. The two divisions of documents under seal, and judgment; and documents not under seal, and verbal contracts, appear to be the plainest and most correct classification, and should be preserved.—L. LEVI.

We see no reason for recommending any change in the law of E. and I.—Dublin Ch. Comm. Limitation and Prescription.

The law of England being more simple and uniform in this respect than that of Scotland is thought decidedly preferable.—Leeds Ch. Comm. *Period.*

Assimilate to Scotland. Six years ought to be the shortest period of prescription of any debt.—Leith Ch. Comm.

English and Irish. All this, save the differing periods of limitation preferred. That period should be the same with reference to all kinds of debt, however constituted, and ten years is suggested as the period.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

E. and I. approved.—Manchester Ch. Comm.

I like that part of the Scotch graduated practice the best which is contained in the following extract, viz.: parole proof, bills of exchange, and writings not attested although holograph, cease to be available at the end of certain periods, varying, according to the subject matter, from three years to twenty years; but proof by other writings under the debtor's hands may be made up to the end of forty years.—E. Heath, Liverpool Ch. Comm.

ENGLAND AND IRELAND.

35. The expiration of the statutory period of limitation does not in England *extinguish* the debt: consequently the creditor may avail himself of a continuing lien on property of the debtor in his hands.

SCOTLAND.

Limitation and Prescription.

Effect of lapse of time.

The expiration of the period of forty years *extinguishes* the debt.

Bonds of caution for sums of money become extinct in seven years.

The principal short prescriptions applicable to mercantile claims whereby the proof is limited as mentioned above in No. 1, although the debts are not extinguished, are,—

1. The triennial.—Book debts, merchants' or traders' accounts, and the like.
2. Quinquennial.—Bargains as to moveables not running into account.
3. Sexennial.—Bills of exchange.

It is said that bonds of caution for sums of money become extinct in seven years. This (even in regard to those cautionary obligations included in the Act 1695, c. 5,) is true only where the sum is payable within the seven years following the date of the bond, and the Act by no means embraces all other cautionary obligations, even for sums of money. Probably, however, the expression *"bonds of caution"* is intended to include only the limited class of obligations contemplated in the Act.

Your committee do not recommend any change in the law of Scotland as to the long prescription of forty years.—Fac. Adv.

Here also there is a slight inaccuracy in the statement. It ought to be that bonds of caution prescribe in seven years, from the time the amount is payable under the bond.

This Committee are of opinion that there should be no change as to the forty years' prescription, but it might be advisable to adopt the sexennial prescription as applicable to those things which fall under the quinquennial, the sexennial, and the septennial prescriptions.—Wr. Sig.

See No. 34.—Soc. Sol.

See No. 34. We consider that if in England a debt cannot be sued for it ought also to be held as *extinguished*, so as not to be available to found a claim for lien. We think that the effect of prescription, unless it be confined to the mere mode of proof, should be to cut off the existence of a debt entirely, and not merely to restrict its recovery to a particular method.—Fac. Proc.

(2.) Rents?—Conv. Royal Burghs.

I think the expiration of the statutory period of limitation should not extinguish the debt but simply bar the remedy, or, rather, suspend it until acknowledgment be made by the debtor of the existence of the liability.—M. D. Hill.

The same remark applies as in No. 34.—A. Blair.

The most important difference in the law of England and Scotland on the subject is, that in England the Statute of Limitation does not at any time extinguish the debt, and the creditor still preserves a continuing lien on the property of the debtor in his hand; whilst in Scotland after the period of forty years the debt is wholly extinguished. On the principle that, after a period of six years, the creditor's rights are abridged, it seems natural that after a lapse of a longer period the creditor's rights, unless renewed, should be wholly extinguished. For this purpose twenty years seems quite sufficient. In France (189, Vol. 2. p. 54), all actions on bills of exchange or promissory notes are prescribed after five years. In Prussia, after one year from the day of protest the bill loses its inherent force. In France (433), actions for payment of freight are prescribed one year after the voyage is ended; for wages and supplies for the ship, one year after the work is done or the goods are sent in.—L. Levi.

LIMITATION AND PRESCRIPTION.

Effect of lapse of time.

We think the law of E. and I. the proper one. It would be manifestly unjust to deprive a creditor of a lien on property of the debtor continuing in his hands.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. approved.—MANCHESTER CH. COMM.

The English rule should be preserved.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
LIMITATION AND PRESCRIPTION. *Open accounts.* 36. In all accounts, except those which are within the exception of "such accounts as "concern the trade of merchandize between "merchant and merchant, their factors or "servants," the legal remedy, in general, ceases as to any item more than six years old, though there be items less than six years old. 21 Jac 1. c. 16. s. 3. (England.) 10 Car. 1. sess. 2. c. 6. (Ireland.)	The legal remedy continues in respect of all the items of an open account, if one of the items be within the period of prescription (three years), and if that period have not run out between any two consecutive items.

Your Committee think that the triennial prescription or limitation of the mode of proof introduced by statute in the law of Scotland, is beneficial, and ought to be retained; but it may be open for consideration whether, in addition thereto, it might not be advisable to engraft on it a limitation (of six years, or any shorter period which may be thought reasonable) as to all the prior items of an open account, similar to the rule of the English law.—FAC. ADV.

(36 and 37.) The triennial prescription, as laid down by the law of Scotland, should also be retained. This Committee think that it is preferable to the rule of the English law. —WR. SIG.

(See No. 34.) In the statement of the English law an *exception*—of "such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants,' —from the operation of the six years upon each individual item of the account, is stated, but it is not stated what period of prescription is applicable to the *exception*, or the period of time from which it begins to run. We assume, however, that the period is six years, beginning to run from the date of the last transaction in the account falling within the exception.

If the meaning we put on No. 36 be correct, the same rule, and also No. 37 of the English law, might be introduced into Scotland.—SOC. SOL.

We prefer the English rule.—FAC. PROC.

I would simplify the rule by repealing the exception as to the accounts between merchant and merchant, and bar the remedy as to old items in all cases. Open accounts are sources of anxiety, dispute, and fraud. A short term of prescription, unencumbered by exceptions, would lead to parties stating their accounts and obtaining acknowledgments of the balances.—M. D. HILL.

The same remark applies as in No. 34.—A. BLAIR.

The existence of a single item within the period of prescription, is sufficient to prove that there has been a revival of the accounts between the parties, and therefore the statute of limitation should cease for all the accounts only six years after the date of the latest item. And it should make no difference whether all the items are one side of the account.—L. LEVI.

We think the law of E. and I. the most expedient.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

It is the opinion of this Board that a strict limit of six years should be applied to each separate item in accounts.—MANCHESTER CH. COMM.

Six years for open account debts may rightly be given, when the account is between parties carrying on business in different countries, or in the United Kingdom and the colonies.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
LIMITATION AND PRESCRIPTION. *Unilateral accounts.* 37. The exception of merchants' accounts does not include any account in which the items are all on one side. Nor the case of mutual sales between two merchants, where neither party could have an action against the other at common law for an account, or for not accounting. Cottam *v.* Partridge, 4 Man. & Gr. 271	And such remedy continues, even where all the items are on one side of the account.

See No 36.—FAC. ADV.

See No. 36.—WR. SIG.

See No. 34 and 36.—Soc. Sol.

Limitation and Prescription.

Unilateral accounts.

There seems no ground for distinction where the entries are on one or both sides of an account, and we therefore prefer the Scotch rule.—Fac. Proc.

The Scottish rule is preferable.—Conv. Royal Burghs.

See No. 36.—M. D. Hill.

The same remark applies as in No. 34.—A. Blair.

See No. 36.—L. Levi.

We consider the law of E. and I. to be the proper law.—Dublin Ch. Comm.

Assimilate to Scotland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

E. and I. quite right.—Manchester Ch. Comm.

The English law preferable.—E. Heath, Liverpool Ch. Comm.

ENGLAND AND IRELAND.

38. If either the creditor or the debtor be out of the United Kingdom at the time the right to sue becomes absolute, the period of limitation does not commence until the return of the absent party.

The absence of one of several joint *creditors* does not prevent the period commencing.

Perry *v.* Jackson, 4 T. R. 516.

But the absence of one of several joint *debtors* does prevent the commencement of the period.

Fannin *v.* Anderson, 7 Q. B. 811.

If an action be brought in England to recover a debt:—

1. The absence of the *creditor* alone from England, if he be in any other part of the United Kingdom, the Isle of Man, or the Channel Islands, does not prevent the bar. 21 Jac. 1. c. 16. s. 7. explained by 3 & 4 Will. 4. c. 42. s. 7.

2. But if the *debtor* be absent from England in any other part of the United Kingdom, the Isle of Man, or the Channel Islands, when the creditor's right accrues, the creditor has a period of six years in which to bring his action after the debtor's return to England.

4 & 5 Anne, c. 16. s. 19.

Lane *v.* Burnett, 1 M. & W. 70.

The law is similar in Ireland.

6 Anne, c. 10. s. 17.

SCOTLAND.

Limitation and Prescription.

Disabilities.

The absence of the creditor from Scotland is not a valid answer to a plea of prescription; nor is that of the debtor, if voluntary, and he remain subject to the jurisdiction of the Scotch Courts.

The law of Scotland as to the absence of the creditor is correctly stated, but we apprehend it is not so as to the absence of the debtor. If the action is raised in Scotland, the limitation or prescription applies; but if action be raised against the debtor elsewhere, the *lex fori* must decide whether it is applicable or not. Your Committee are not prepared to recommend any change.—Fac. Adv.

(38 and 39.) This Committee do not think any change should be made as applicable to these points, except perhaps that minors should be protected by the septennial, as well as the other prescriptions.—Wr. Sig.

The English rules might be adopted.—Soc. Sol.

There is no principle why the absence of a creditor should interfere with the running of prescription. The case of the debtor is different. If he withdraws and leaves no funds to pay his debts, or which could be attached to found jurisdiction, prescription should cease running during such absence, as the creditor should not be compelled to follow and sue in a foreign country; but the United Kingdom should be held as one country.—Fac. Proc.

The Scottish rule seems simplest. The English may give rise to many questions.—Conv. Royal Burghs.

The absence of the creditor ought not to suspend the period of limitation, as he may make a representative by power of attorney. Nor should the absence of the debtor prevent the statute from running, unless he has gone abroad without appointing a representative. Provision should be made for registering powers of attorney, to remain in force until the register was cancelled. I think the absence of one of several joint debtors should not prevent the commencement of the period. I think the United Kingdom, the Isle of Man, and the Channel Islands should, for all purposes of this nature, be considered as one country, and that process from each portion should run into all.—M. D. Hill.

LIMITATION AND PRESCRIPTION.

Disabilities.

I can see no objection to the English law, and approve of it.—A. BLAIR.

The absence of the debtor is a complete justification to the presumed neglect of enforcing the claim; therefore it is just that the period of limitation should not commence running till from the date of the return of the absent party. But it should not make any difference whether one of several joint debtors or one of several joint creditors is absent, as, according to the rule laid down by B. Alderson, the statute begins to run as soon as there is a cause of action, a plaintiff that can sue, and a defendant that can be sued in England.—L. LEVI.

We prefer the law of E. and I. It is obviously equitable in the several particulars here stated.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish. The whole of this preferred, save that absence in any part of the United Kingdom or Isle of Man should not in any way hinder the running of the period of limitation.—BERWICK WATCH COMM.

Read,—The absence of the creditor, or of one of joint creditors, from the United Kingdom is not a valid answer to a plea of prescription, but if the debtor or debtors be out of the kingdom at the time the right to sue becomes absolute, the period of limitation does not commence until he or they return. In all other respects retain Engish.—LAW OF D. & C. COMM.

The English law preferable.

Under this head, it may be stated that, as far as *procedure* is concerned, it is very desirable that England, Scotland, and Ireland should be considered as one country; so that a resident in any of the above countries may be made to appear to an action in any part of the United Kingdom, where the *cause* of that action arose, and that all subpœnas and judgments should run free throughout the United Kingdom; at present it becomes too often practically impossible for an Englishman to sue a man in Ireland or Scotland for a claim originating in England, and *vice versâ*.—E. HEATH, LIVERPOOL CH. COMM.

LIMITATION AND PRESCRIPTION.

Minors.

ENGLAND AND IRELAND.	SCOTLAND.
39. Minors have six years after attaining majority in which to enforce their claims, not derived from others.	Minors in general are protected by statute against the operation of prescription during their minority.

It is said that minors in general are protected by statute against the operation of prescription during their minority.

This is scarcely correct. Minors are so protected against the long negative prescription of forty years, the sexennial limitation of bills of exchange, and the quinquennial prescription applicable to bargains concerning moveables; but they are not protected against either the septennial prescription of cautionary obligations, or the triennial or other prescriptions.—FAC. ADV.

See No. 38.—WR. SIG.

As the law at present stands in Scotland, minors are protected against the operation of the negative, vicennial, sexennial, and quinquennial prescriptions. If the suggestion we have made above (No. 34) be adopted, minority might be excepted from the operation of the proposed negative prescription of twenty years. But, with reference to the proposed prescription of six years, there should be no exception on account of minority.—SOC. SOL.

A reasonable time should be allowed to minors, after attaining majority, to enforce their claims, but six years appears to be too much. Should this rule apply to a minor pubes with guardians?—FAC. PROC.

I do not think minors who have guardians require any protection of this kind, but may be put on the footing of persons of full age.—M. D. HILL.

The English law is more precise.—A. BLAIR.

The absence of a debtor from England in any other part of the United Kingdom is not an absence to justify the interruption of the statute.—L. LEVI.

The E. and I. law is a very equitable arrangement.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish approved.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

The English law preferable.—E. HEATH, LIVERPOOL CH. COMM.

LIMITATION AND PRESCRIPTION.

Effect of Acknowledgment.

ENGLAND AND IRELAND.	SCOTLAND.
40. No acknowledgment of a debt will be effectual to keep it alive, or to revive it, unless it be in writing and contain a promise, express or implied, to pay the debt. 9 Geo. 4. c. 14. s. 1. Hart *v.* Prendergast, 14 M. & W. 741.	An acknowledgment of a debt, made *within* the period of short prescription, does not elide prescription. But if the acknowledgment be made *after* the period of short prescription is completed, it will be effectual to prove the debt, if the acknowledgment be clear, although it contain no promise to pay. 1 Bell's Comm. 333.

Your committee are not aware that there is any decision, holding it indispensable that the acknowledgment should be made to the creditor or his agent, in any case.

LIMITATION AND PRESCRIPTION.

Effect of Acknowledgment.

At the same time, it may be observed that the expression in the Statute 1469, c. 29, that every obligation shall prescribe in forty years, *unless the party to whom it is made* shall follow the same within that time, "*and take document thereupon,*" seems to imply that the acknowledgment must be made to the creditor or his agent.

The point was raised, but not decided, in the recent case of Briggs *v.* Swan's executors, January 24, 1854.

In cases falling under the triennial limitation, any written acknowledgment of the debt by the debtor after the three years have run is sufficient to elide the limitation, and your committee do not think that any change should be made in the law of Scotland in this respect, subject to the observations above made on Articles 3 and 4 of this head.

It might be desirable, in many respects, that the prescriptions or limitations of actions applicable to mercantile debts should be the same in both countries, but we are not aware of any particular inconvenience resulting from the specific differences mentioned in the inquiries.—FAC. ADV.

(40, 41, and 42.) This Committee do not think there is any occasion for altering the law of Scotland as to the points involved in these articles.—WR. SIG.

The rule of the Scotch law seems preferable. The written acknowledgment of the debt, *after* the period of prescription has run, is used for the twofold purpose of barring the debtor from pleading prescription, and instructing an *admission of the debt.*

The English rule rather seems to require such a writing as will raise up an independent obligation, which we humbly think is unnecessary.—SOC. SOL.

We think the Scotch rule, as here laid down, good and preferable to that of England. The Courts, however, appear recently to have been varying it. See remarks on No. 34.

We think the bare acknowledgment should be sufficient, and that *technical* words, or a *promise to pay*, should be immaterial.—FAC. PROC.

The Scottish rule seems simplest, and better than the English.—CONV. ROYAL BURGHS.

I believe this provision has been the source of much injustice. The principle of limitation is to protect parties from trumped up claims arising out of the difficulty of being provided with evidence regarding transactions remote in point of time. This principle our law acknowledges by refusing to make the limitation operate by way of extinguishment. It bars remedies but does not affect rights. Why then should more be required than a distinct admission that the right exists. Why should a defendant be allowed to say, I know that the liability is a just one, and that it is of a certain amount, and that it has never been satisfied, yet I refuse to pay it?—M. D. HILL.

In Scotland the short prescription runs against the instrument, not against the debt; in England against the right of action—hence the difference.—A. BLAIR.

An acknowledgment of a debt made within the period should be sufficient to elude prescription, and it should make no difference whether the acknowledgement is verbal or in writing, express or implied, provided it may be established by legal evidence as a promise to pay the debt.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

English and Irish law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

The Board is of opinion that oral proof ought to be admissible.—MANCHESTER CH. COMM.

The Scotch law preferable.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
41. The acknowledgment must be signed by "the party chargeable thereby," and the signature of his agent is insufficient.	A memorandum written by the debtor may in some cases be sufficient, though not signed by him; and an agent duly authorized may make an effectual acknowledgment in writing.

LIMITATION AND PRESCRIPTION.

Form of Acknowledgment

See No. 40.—FAC. ADV.

See No. 40.—WR. SIG.

There does not seem to be much, if any, difference between the laws of the two countries in this particular:—In Scotland, the "memorandum" must be a document privileged as *in re mercatoriâ*, and capable of being used in evidence. If it be signed by an agent, he must hold full authority to bind his principal.—SOC. SOL.

We think the Scottish rule preferable, and that a duly authorized agent, actingwi thin the limits of his commission, should bind his principal.—FAC. PROC.

Signature should be necessary, and that of an agent sufficient if he has authority.—CONV. ROYAL BURGHS.

I think acknowledgments should be very strictly watched, I therefore prefer the English rule.—M. D. HILL.

I know of no inconvenience from the Scottish law, but would observe that in the case of affairs under dispute or past due as to term, the direct action of the principal seems desirable.—A. BLAIR.

And so as to the requirement of the signature of the party chargeable thereby. It is in the province of the judge to decide whether under the circumstances an acknowledgment signed by the agent should be sufficient.—L. LEVI.

LIMITATION AND PRESCRIPTION.

Form of Acknowledgment.

We prefer the law of E. and I.—DUBLIN CH. COMM.

English and Irish law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred; save that the memorandum should be signed by debtor or his agent.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. &. C. COMM.

The acknowledgment of recognized agents ought to be admissible.—MANCHESTER CH. COMM.

The Scotch law preferable.—E. HEATH, LIVERPOOL CH. COMM.

LIMITATION AND PRESCRIPTION.

Acknowledgment—to whom.

ENGLAND AND IRELAND.

42. The acknowledgment must be made to the creditor or his agent.

Holland *v.* Clark, 1 Y. & C. C. C. 151.

An *acknowledgment* by one co-contractor does not keep alive the claim as against the others.

9 Geo. 4. c. 14. s. 1.

But *part payment* by one co-contractor will keep alive or revive the claim against the others.

Channell *v.* Ditchburn, 5 M. & W. 494.

SCOTLAND.

It is not indispensable in all cases that the acknowledgment should be made to the creditor or his agent.

See No. 40.—FAC. ADV.

See No. 40.—WR. SIG.

The Scotch rule seems to be loose, but cases may occur in which an *acknowledgment indirectly* made may become available to the creditor, although it would occasion less litigation if the rule were to be made clear, that the acknowledgment should be *to* the creditor or hi agent. The *first* branch of the statement of the English law should be adopted. The *second* branch should also be adopted; but the *third* branch is objectionable, being liable to serious abuses.—SOC. SOL.

In this matter there is a difference of opinion, but the preponderance is in favour of the Scottish rules, as an explicit admission to a third party may be as distinct as to the party himself. The acknowledgment of, or partial payment of a debt, by one co-contractor or co-obligant should not bind another, unless the party acknowledging or paying was *præpositus* for such other.—FAC. PROC.

The Scottish rule preferable.—CONV. ROYAL BURGHS.

I think, if the acknowledgment is distinct, as it ought to be, it matters little to whom it is made. I think neither acknowledgment nor part-payment by one co-contractor ought to keep alive or revive the claim against the others. The fact of there being co-contractors is one liable to be fabricated, like any other fact in the case, and should be equally protected by the statute.—M. D. HILL.

The same remark applies as in No. 41.—A. BLAIR.

Nor would it be necessary that the acknowledgment should be made to the creditor or his agent, when it has a specific reference to the debt in question. When the contract is joint the acknowledgment or part-payment of one should be sufficient to keep alive the claim as against the others.—L. LEVI.

We prefer the law of E. and I.; but we conceive that the anomaly between the acknowledgment and part payment by one co-contractor should be removed; and we think it is only the party who acknowledges or pays that should be bound.—L. LEVI.

Assimilate to Scotland.—LEITH CH. COMM.

The Scotch law, under which it is not indispensable in all cases that the acknowledgment should be made to the creditor or his agent, preferred. The acknowledgment, as well as part payment, by one co-contractor to prevent the running of the limitation.—BERWICK WATCH COMM.

E. adopted, omitting "But part payment," &c. to end.—LAW OF D. &. C. COMM.

The second clause of E. and I. wrong; contractors ought to be collectively and severally bound together until the final settlement of the contract.—MANCHESTER CH. COMM.

SHIPPING.

Difference between part owners.

ENGLAND AND IRELAND.

In case of difference between part owners as to the employment of the ship, the majority are entitled to rule it, and the minority cannot compel a sale.

But the minority can arrest the ship until security is given for their interest by the majority, the minority repudiating all interest in the employment determined on by the majority.

SCOTLAND.

In case of difference between part owners as to the employment of the ship, the minority may insist upon a sale; or that, at a price put upon the shares, the majority shall, at their option, either sell their shares to the minority, or buy the shares of the minority.

1 Bell, 503.

Difference between part owners.

The power which the law of Scotland gives to the minority of part owners, in the event of difference of opinion, to insist on a sale, seems more reasonable than the power of a mere majority to compel the minority to continue associated with them, notwithstanding difference of opinion as to the management of the vessel.—FAC. ADV.

The power allowed by the law of Scotland to the minority of part owners, seems reasonable, and this Committee do not think it should be altered, although they certainly think that the laws relative to shipping should be the same in both countries.—WR. SIG.

The rule of the law of Scotland more speedily releases parties from a state of joint ownership when unanimity as to the employment of a ship no longer exists. If parties cannot agree upon a private sale, a judicial sale may at all times be effected at the instance of any of the owners. The rule therefore should not be changed.—SOL. SOL.

We think the principle of the Scottish rule preferable to that of England; as when joint owners do not agree the property is not advantageously managed, and a separation should take place. There is, however, considerable difficulty in adopting the Scottish law in its full extent; as putting a price on the ship, with the alternative of a compulsory purchase or sale, gives a great and unfair advantage to a rich over a poor co-owner. Perhaps, therefore, the rule applicable to all joint property (as laid down by Lord Rutherford in Brock v. Hamilton, 1st vol., Stewart, &c. Rep. p. 259, 15 January 1852), making a sale imperative in all cases, is preferable.

See remarks as to sale by a mortgagee on No. 2.—FAC. PROC.

The Scottish rule is to be preferred, as the sooner such a community of interests can be put an end to the better.—CONV. ROYAL BURGHS.

I prefer the Scotch rule. When disputes arise between partners or part-owners a separation is the best course.—M. D. HILL.

The Scottish law seems very reasonable.—A. BLAIR.

Considering the importance of expedition in all that relates to navigation, it is important that the majority of part owners should rule, and all that the minority can ask is a security for their shares in case of difference, where they repudiate the employment of the ship.—L. LEVI.

We prefer very much the law of S. It is obviously the most equitable; and there are many instances in which the law of E. and I. leads to litigation and injustice.—DUBLIN CH. COMM

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

Majorities in number and value ought to rule.—MANCHESTER CH. COMM.

Though the English law may be more equitable, the Scotch law is the more convenient, and is in fact frequently acted upon in England and Ireland.—E. HEATH, LIVERPOOL CH. COMM.

Of seamen on freight.

ENGLAND AND IRELAND.	SCOTLAND.
44. Seamen have no lien for their wages on freight, after the cargo has been removed from the ship.	Seamen who have navigated a ship in any voyage have a preference in ranking on the freight earned in that voyage. 1 Bell's Comm., 512.

The Scottish rule appears preferable.— FAC. ADV.

The rule of the law of Scotland seems the preferable.—WR. SIG.

So long as the freight remains a tangible fund, either in the hands of the freighter or in the hands of a trustee on the estate of the shipowners, it seems to be humanity and justice that the seamen should be entitled to be ranked preferably thereon for their wages. It has been held in Scotland (*Sands* v. *Scott*, 1708, Dict., 6261) that seamen may recover their wages by direct action against the owner of the cargo, who had not paid the freight. The Scotch law in this particular should not be altered.—SOC. SOL.

We think the Scotch rule fair, and that the removal of the cargo ought not to affect the right of lien.—FAC. PROC.

The Scottish law is preferable and more fair.—CONV. ROYAL BURGHS.

I prefer the Scotch rule.—M. D. HILL.

I prefer the equity of the Scottish practice.—A. BLAIR.

The right of seamen to their wages is an inalienable right; and it seems just that they should have a preference in ranking on the freight earned in the voyage they have navigated a ship, even after the cargo has been removed from the ship.—L. LEVI

We prefer the law of E. and I.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

The enlarged lien afforded by the Scotch law had better be adopted.—E. HEATH, LIVERPOOL CH. COMM.

LIEN.

On pledged property for debt not specifically charged.

ENGLAND AND IRELAND.	SCOTLAND.
45. Property pledged for a particular debt is not in general subject to any lien for another debt not specifically charged upon it.	Property pledged for a particular debt may be retained by the pledgee on the ground of another debt due to him from the pledger, though not specifically charged upon it.

Your committee think that the law of Scotland is incorrectly stated in this article, and that there is no practical difference between the laws of the two countries.—FAC. ADV.

This Committee rather doubt the statement here made as to the law of Scotland; but if it is the law, they think the English rule the preferable.—WR. SIG.

We are not aware of any distinct authority in support of this statement of the Scotch law. In two cases, the creditor was vested under a written instrument, *ex facie* absolute—in the one, to certain shares of a ship, and in the other, to a claim of debt—and he was held entitled to retain the subject, not merely for the special debt, but for other debts due. In noticing these cases, the late Professor Bell remarks, "But it seems very doubtful whether in a mere pledge of moveables the same principles can be applied."

Balleny v. *Raeburn and Company*, 7th June 1808, F.C. *Creditors of Dougall*, 11th June 1794, *Bell's Cases*, p. 41. *Bell's Illustrations*, vol. 1. p. 441.

The principle applied in these cases *may* be extended to pledge of corporeal moveables.—SOC. SOL.

We understand the law of Scotland to be, that there is a right of retention in all cases, in which a party happens to have the property of his debtor lawfully in his possession, and we think such a power of retention is equitable and expedient wherever the debt is liquid and past due; or, in case of bankruptcy, even although not liquid and not past due.—FAC. PROC.

Is this *quite fixed* as the law of Scotland? It seems just.—CONV. ROYAL BURGHS.

I prefer the English rule, as I believe that, in the majority of instances, it would better coincide with the intention of the parties at the time of the transaction.—M. D. HILL.

In this case I prefer the law of England which limits the claim to the terms of the agreement.—A. BLAIR.

It is submitted that for the same reasons that a seller would have a right of lien on the goods in his hands, even for another debt or general balance due to him by the buyer—so should the pledgee be in power to retain property pledged for another debt, though not specifically charged upon it.—L. LEVI.

We prefer the law of E. and I as obviously just and reasonable.—DUBLIN CH. COMM.

English and Irish law preferred.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK CH. COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

See No. 3.—E. HEATH, LIVERPOOL CH. COMM.

LIEN.

Security for future debts.

ENGLAND AND IRELAND.	SCOTLAND.
46 A security upon real property for future advances of money, or any other future grounds of debt, may be effectually created, and no limitation of the amount need be declared.	Securities upon heritable subjects for future debts, or for debts of indefinite amount, are not competent. But the statute 33 Geo. 3. c. 74 excepts "balances arising upon cash accounts or credits," if the principal and interest be limited to a certain definite sum, to be specified in the security. 2 Bell, 240.

There seems no reason for any alteration in this respect. As a general principle, securities over land for an indefinite or fluctuating sum, are opposed to the whole principles of our feudal law; and the special exception in the case of cash credits, where, although the amount fluctuates, the debt cannot exceed a certain sum, seems to go as far as the necessities of the case require.—FAC. ADV.

The point here noticed materially affects the principle of law as applicable to land rights; this Committee could not recommend any alteration on the law of Scotland in this respect. Any such change would be opposed to the whole principles of our feudal law.—WR. SIG.

This statement of the law of Scotland enters deeply into the policy of the Bankrupt Statute 1696, cap. 5. It also touches our system of registration of heritable rights. The scope of these remarks excludes both these subjects.—SOC. SOL.

Wherever there are land records it seems essential that the limit of the amount of the future debt should be stated. We think the principle of the Scotch Act good, and it has worked well in practice. But in practice indefinite securities are daily given in the form of *ex facie* absolute conveyances qualified by a back bond not registered, which, however, place the debtor very much in the power of the creditor.—FAC. PROC.

LIEN.
Security for future debts.

Any change in the law of Scotland in this respect would do away with the security afforded by our records, and ought not to be thought of for a moment.—CONV. ROYAL BURGHS.

I prefer the English rule. It would require a strong case indeed to convince me of the policy of interfering to prevent parties from entering into any express contract which they may choose to create.—M. D. HILL.

The law of Scotland should be altered unless cause shown to the contrary.—A. BLAIR.

There does not seem to be any reason why a security upon real property should not be granted for future advances.—L. LEVI.

We prefer the law of E. and I.; it is found most useful in trade.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred; but the limitation of the extent of security to be declared.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

On mercantile grounds, there seems to be no reason why a man should not have power to pledge his real property in like manner to any other species of property.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
47. Are liable for loss by accidental fire to goods in their care. Forward *v.* Pittard, 1 T. R. 27. Hyde *v.* Trent & Mersey Navigation, 5 T. R. 389.	Are not liable for loss by accidental fire to goods in their care. Macdonald *v.* Ettels, 15 Fac. Coll. 466. 1 Bell's Comms., 470.

BAILMENTS.
Carriers.

Your committee are not disposed to recommend any change on the law of Scotland as stated in this article.—FAC. ADV.

(47 and 48.) This Committee are of opinion that the rule of the Scotch law is the most equitable, and should not be altered.—WR. SIG.

We prefer the English rule, which appears to be also the law of America, and is not inconsistent with the principle of the law of Scotland.—SOC. SOL.

The Scottish rule is just in principle, except when the accident is in the course and in consequence of the transit, as, firing of railway trucks from sparks from the engine, heating of axles, &c.; but the advantage of saving litigation gives a practical value to the English rule.

On this point there is a difference of opinion.—FAC. PROC.

The rule in the two countries ought to be made uniform.—CONV. ROYAL BURGHS.

I prefer the English rule. The carrier by vigilance may lessen the number of accidental fires. The owner has no such power, and I think power and responsibility, as I have already said, ought rarely to be separated.—M. D. HILL.

I think the English practice is best, as carriers can more easily insure the goods under their care against fire than the owners of the property.—A. BLAIR.

As the liability of carriers for loss by accidental fire is invariably excepted in bills of lading or carriage note, it seems all but useless to render them so by law. As bailees, carriers are only bound to bestow their utmost care to the goods entrusted to them.—L. LEVI.

We prefer the law of E. and I. It is a protection for the public against carelessness or mischief on the part of carriers or their servants.—DUBLIN CH. COMM.

English and Irish law right.—LEEDS CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM

E. and I. right.—MANCHESTER CH. COMM.

The Scotch law should be assimilated to the English, the latter being more convenient in case of land carriage.—E. HEATH, LIVERPOOL CHAM. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
48. In case of injury, the *onus probandi* of negligence in the hirer is on the owner. Cooper *v.* Barton, 3 Camp. 5, note.	In case of injury, the *onus probandi* of there having been no negligence in the hirer lies on him. Robertson *v.* Ogle, 1809, 15 Fac. Coll. 348. Marquis *v.* Ritchie, 1823, 2 S. & D. 386. 1 Bell's Comm., 454.

BAILMENTS.
Hiring of Goods.

Your committee think that the law of Scotland on the subject of injury to goods hired while in the possession of the hirer is preferable to that of England.—FAC. ADV.

See No. 47.—WR. SIG.

In case of injury, the *onus probandi* seems properly laid upon the party in possession at the time. He is not under the oversight or inspection of the owner, and is

BAILMENTS.
Hiring of goods.

frequently at a considerable distance from him. The hirer always has it in his power to throw upon the owner the burden of proving that the article hired was fit for the intended use.—SOC. SOL.

See No. 47. The same remarks may be made here. It is almost impossible for the owner of the goods, in many cases, to prove specific negligence on the part of the hirer.

On this point there is a difference of opinion.—FAC. PROC.

No one can be called on to prove a negative.

It seems fair, however, to call on the hirer to show that he took all proper care of the subject hired, as the owner cannot be cognizant of all that takes place in his absence.—CONV. ROYAL BURGHS.

Here, for an analogous reason, I prefer the Scotch rule. The means of knowledge are with the hirer. The rule, however, has lost much of its importance since the admission of the evidence of parties.—M. D. HILL.

I do not see how the hirer can prove a negative.—A. BLAIR.

Although the effect of neglect on the part of the hirer may be evident, it may often be impossible to the owner to prove it. Where, therefore, there is injury it seems just to throw on the hirer the burden of proving no negligence on his part.—L. LEVI.

We prefer the law of E. and I. as most convenient and equitable.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

An invariable rule as to the party to prove would be found often inconvenient and inequitable; it would be better if a discretion could be given to the judge.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
49. "Any special promise to answer for the debt, default or miscarriage of another person," "must be in writing, signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized," in order that an action may be founded thereon. 29 Car. 2. c. 3. s. 4. (England.) 7 Will. 3. c. 12. s. 2. (Ireland.)	In general a mercantile guarantee can be proved only by writing, or by the oath of the cautioner. Yet it may be established by parol evidence where it is an integral part of a contract between the creditor and principal debtor, which may competently be proved by parol evidence. Carruthers *v.* Bell, 13 Nov. 1812. Fac. Coll.

MERCANTILE GUARANTEE.
Evidence.

Your committee do not see cause to recommend any alteration on the law of Scotland in so for as it allows a verbal mercantile guarantee to be proved by parole in the case a stated in the query when it is an integral part of the *res gestæ* at the time of contracting a consensual contract constituted orally between the creditor and principal debtor.—FAC. ADV.

This Committee are of opinion that the rule of the law of Scotland should remain.—WR. SIG.

The rule of the English law, which requires a written document to constitute the obligation, is the safer. But it should be competent to prove the obligation by the oath of the alleged obligor.—SOC. SOL.

The leading distinction between the laws of England and Scotland, as to mercantile guarantee, appears to consist in *writing* being required in the former in all cases; whereas in the latter it may, in numerous classes of cases, be established by oral evidence.

We entertain different opinions as to whether it is preferable that such guarantees should be constituted and proveable by oral evidence, or whether writing should be indispensable. In support of the former view, it is said that such guarantees are matters as to which witnesses do not readily mistake, and there is no absolute principle requiring writing; and particularly with reference to guarantees founded on representations as to the position of parties, it is said fairly and plainly, that there is no reason why a person should not be held liable for a spoken as well as for a written misrepresentation or mis-statement, all admitting that fraud infers liability. On the other hand, it is said that public policy is adverse to indiscriminate cautionary obligations, and that parties should be put on their guard by interposing the formality of writing;—farther, in construing what takes place verbally, there may be so little difference between merely giving an opinion as to the circumstances of a person and a guarantee for him, that witnesses may be very apt to mistake the meaning or intention of parties, particularly in claims founded on representation; and there is also the extreme delicacy in answering inquiries made to avoid the effect of seriously injuring credit—all combine to render a deliberate written guarantee requisite.

Upon the whole, the great majority of us adopt the latter view.

These general remarks supersede detailed answers to Nos. 49, 50 and 52, except as to the latter part of No. 52, as to which we think that the written document, to be effectual, should be probative *per se*, or be followed by implement to some extent.—FAC. PROC.

Such guarantee ought only to be provable by the writing or oath of the cautioner.—CONV. ROYAL BURGHS.

I prefer the English rule.—M. D. HILL.

MERCANTILE GUARANTEE. *Evidence.*

I am of opinion that a guarantee should be written and not be open to proof by parole evidence or by oath. It seems to me that the latter description of evidence should be admitted only in cases perfectly simple and well defined, and in which the terms cannot be easily mistaken.—A. BLAIR.

Where a mercantile guarantee can be proved by verbal evidence, it should be held valid and binding. In Prussia (203) a guarantee must be in writing.—L. LEVI.

We prefer the law of E. and I., considering that every guarantee should be in writing so as to define accurately what the liability undertaken really is.—DUBLIN CH. COMM.

The English law is thought preferable to the Scotch, with the exception of "consideration" which it is a mere form to state, as, where really wanting, a nominal one can be readily supplied.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

The Board thinks that the E. and I. rule should be amended by making parole evidence admissible.—MANCHESTER CH. COMM.

(49. and 50.) In *mercantile* transactions, properly so called, I prefer the English law; but in shopkeepers business,—that is, over the counter,—the Scotch.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
50. The absence of writing is not supplied by performance of the contract on the part of the creditor.	Or where the creditor has acted upon it by furnishing goods, paying money, forbearing to take legal proceedings, or otherwise implementing the contract in whole or in part to the debtor. 1 Bell's Comm. 371. The writing must either be holograph of the cautioner or surety, or be probative under the Act 1681, c. 5, or be followed by implement to some extent.

MERCANTILE GUARANTEE. *Evidence.*

Your committee doubt if the law of Scotland be here correctly stated.

(1.) They do not think that *rei interventus* would by our law be held *per se* to render parole evidence of a guarantee competent, unless the case otherwise fall within the class (No. 49). They think that the passage of Professor Bell's work referred to does not support the proposition of the Commissioners, and the contrary has been ruled in the case of Chaplin *v.* Allan, 5th February 1842, 4th D., p. 616. They can, at all events, find no other authority for such a position; and should certainly disapprove of any such doctrine in principle.

(2.) The case of a mercantile guarantee is within the general exception of documents *in re mercatoriâ*, which need not be either holograph or tested, but are legally binding if they bear the signature of the guarantor, admitted or proved.

See Paterson *v.* Wright, 31st January 1810, affirmed on appeal 4th July 1814; Thomson *v.* Gilkison, 9 S. 520.—FAC. ADV.

This Committee are not aware that it is the law of Scotland, that a *rei interventus* would allow of a guarantee being proved by parole evidence, if the case did not in itself fall under this rule. But if such is the law, they think it ought to be altered.

This Committee do not concur in the statement made in the second branch of this query, viz., that all mercantile guarantees, where they require to be in writing, must be holograph or tested. On the contrary, the case of a mercantile guarantee does not require to be either holograph or tested, but is binding if it bear the signature of the party.—WR. SIG.

(See No. 49.) The second part of the statement of the law of Scotland in article 50 is incorrect. A writing neither holograph, nor tested according to the Act 1681, cap. 5, if *in re mercatoriâ*, is valid.—*Paterson* v. *Wright*, 31st January 1810, F. C. Bell's Principles, § 249 (3) Fourth Edition.—SOC. SOL.

See No. 49.—FAC. PROC.

This is stating the law of Scotland too broadly.

A writing *in re mercatoriâ* is binding, although not holograph or not duly tested.—CONV. ROYAL BURGHS.

As the real question is, what was the contract? performance seems to me an immaterial fact: I therefore prefer the English rule.—M. D. HILL.

I prefer the law of England rather than the equitable view taken by the law of Scotland, which, however, may be explained as to its practical results.—A. BLAIR.

(See No. 49.) Especially so where the contract has received execution in virtue of the verbal guarantee.—L. LEVI.

This naturally follows from No. 49.—DUBLIN CH. COMM.

See No. 49.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. Adopted.—LAW OF D. & C. COMM.

See No. 49.—E. HEATH, LIVERPOOL CH. COMM.

MERCANTILE GUARANTEE.

Consideration.

ENGLAND AND IRELAND.

51. There must be a consideration for the guarantee, and such consideration must appear in the writing, or be the subject of well-grounded inference to be necessarily collected therefrom.

Hawes *v.* Armstrong, 1 Bing., N.C. 761.

But the consideration may be trifling.

Haigh *v.* Brooks, 10. Ad. & El. 309.

SCOTLAND.

The writing containing the guarantee need not show any consideration. And in general no consideration is necessary to the validity of the guarantee as against the cautioner.

Your committee have no remark to submit, except that they think the law of Scotland decidedly preferable on this point.—FAC. ADV.

This Committee much prefer the Scotch rule.—WR. SIG.

No consideration should be necessary to support a guarantee.—SOC. SOL.

Cautionary is generally friendly, not onerous; consideration is therefore a fiction, and should be dispensed with in form when it has no reality. All that should be required is the *intention* to bind, and the *act binding*.—FAC. PROC.

It is a mere fiction, the consideration set forth in English guarantees. The time for such fictions is gone by.—CONV. ROYAL BURGHS.

I think there should be a consideration, but I think it may safely be collected from *parol* evidence.—M. D. HILL.

I do not consider that any consideration should be shown.—A. BLAIR.

The creditor need not prove that there was a consideration for the guarantee. The cautioner may undertake to guarantee a debt solely for the benefit of the debtor. In such case the benefit conferred on the debtor by the trust is a consideration.—L. LEVI.

We think the arrangement of the law of E. and I. very proper.—DUBLIN CH. COMM.

See No. 49.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

To require a "consideration" in cases of guarantee appears to this Board to be of no practical use whatever, and should be relinquished.—MANCHESTER CH. COMM.

The Scotch practice simplest and best.—E. HEATH, LIVERPOOL CH. COMM.

MERCANTILE GUARANTEE.

Representations as to character, &c.

ENGLAND AND IRELAND.

52. *Representations* "as to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain credit, money, or goods," must be in writing, in order to found an action against the person making them.

9 Geo. 4. c. 14. s. 6.

SCOTLAND.

A verbal statement as to the position of another person, whereby a third person is induced to give him credit, will found an action against the person making the statement.

Hunter *v.* Carson, 1824, 2 S. and D., 716.

In the case of Hunter *v.* Carson here referred to, it was held of importance that the verbal statement of the guaranter formed part of the *res gestæ* of the transaction between the principals; and further, that it was *ultroneously* offered, with the view of *inducing* the creditor to deal with the principal. These and other such specialties will, we think, be found always to resolve merely into elements in the question of *fact*, whether the defendant could fairly be held to intend to interpose his personal obligation in the transaction between the principals.

But we doubt where there be authority for holding that these special cases *per se* form a separate *class* of exceptions from the general rule, apart from No. 49 already referred to. The case of Hunter *v.* Carson seems to us, when closely considered, to form merely an illustration of exception. (No. 49.)—FAC. ADV.

(52 and 53.) This Committee are doubtful how far the law of Scotland is correctly laid down in these articles, but if so, they are of opinion that the rule of the law of England is the preferable. Your Committee would also recommend that the law, as applicable to mercantile guarantees, should be the same in both countries.—WR. SIG.

The English rule is certainly preferable to the Scotch. The case of *Hunter* v. *Carson*, referred to, was one of very special circumstances, and can scarcely be said to have laid down any general rule. It rather seems to have fallen under the principle of the law of Scotland, that the contract being capable of oral proof, the accessory obligation entered into at the same time admitted of proof of the same degree.—See above, Nos. 49 and 50.—SOC. SOL.

See No. 49.—FAC. PROC.

The English rule seems preferable, and less liable to misconstruction.—CONV. ROYAL BURGHS.

I prefer the English rule.—M. D. HILL.

Representations should be in writing unless accompanied with a personal introduction.—A. BLAIR.

MERCANTILE GUARANTEE.

Representations as to character, &c.

It is difficult to define the limits of representations so as to be binding on the person making them. A representation is not a guarantee. By a representation no assurance is given to answer in case of default. It is only an assertion of opinion to the best knowledge of such a party. It is submitted that no general *representation*, written or verbal, should be held binding on the person making it unless it may be construed as a guarantee.—L. LEVI.

We prefer the law of E. and I. Representations, like guarantees, should, to warrant an action, be protected against the inaccuracies or misunderstandings of a parol witness, and should therefore be in writing.—DUBLIN CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

Parole evidence ought also to be permitted in such cases.—MANCHESTER CH. COMM.

Representations should not be actionable if made in good faith, and the representer has no interest in the buyer obtaining credit; but in all cases where such interest can be shown, the representer ought to be liable whether the representation be in writing or oral.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
53. A guarantee, whether *to* a firm or *for* a firm, consisting of two or more partners, ceases as to fresh transactions when a change takes place in the partners.	A guarantee *for* a firm consisting of two or more partners ceases, but a guarantee *to* such a firm does not always cease, upon a change taking place in the partners.

MERCANTILE GUARANTEE.

To or for a firm.

Your committee are not aware of any authority for holding that the *general rule* in Scotland, upon this point, differs from what is stated to be that of the law of England, But there have been cases in which the conduct of parties, in continuing a course of dealing in reliance upon a guarantee, has in very special circumstances been held to infer a renewal or continuance of the guarantee, notwithstanding a change in the constitution of the firm which was the original party. Such cases are necessarily involved in specialties; and your committee do not know any authority for holding that they may not embrace guarantees *for* a firm equally with guarantees *to* a firm.—See Spiers *v.* Royal Bank, 1st S. p. 516, and Aytoun *v.* Dundee Bank, 19th July 1844.—FAC. ADV.

See No. 52.—WR. SIG.

The English rule is more consistent with principle, and should be adopted.—SOC. SOL.

We prefer the English rule,—guarantees are given as much with reference to the character and habit of the creditor as of the debtor.—FAC. PROC.

The English rule seems preferable where the laws differ on this matter.—CONV. ROYAL BURGHS.

I think the Scotch rule the best.—M. D. HILL.

I think the guarantee should cease in both cases, for the discretion or indiscretion used in making a claim good may produce very important consequences to the party guaranteeing the claim, and so there is room for a choice of persons.—A. BLAIR.

It makes no difference where any change takes place in the firm to whom the guarantee is given. But it does make a difference where a change is effected in the partners of the firm *for* whom a guarantee is given.—L. LEVI.

We prefer the law of E. and I. A party might be willing to go security to one set of partners, and very unwilling to do so to persons whose prudence, caution, or integrity, he entertained a different opinion.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to England and Ireland.—LEITH WATCH COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

The Scotch principle is much better than in the corresponding English paragraph.—MANCHESTER CH. COMM.

The Scotch law best.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
54. Where an engagement by principal and surety is joint, though the creditor must institute proceedings against both, yet having obtained judgment or decree, he is at liberty to enforce payment against the surety, being living, and, if there be two or more sureties, against any one of them, who is living, exclusively; such surety being left to adjust with the principal, and with the other sureties (if any), his rights to indemnification and contribution.	If in an engagement by principal and cautioner the latter have bound himself only as cautioner, and not also jointly and severally, or "as full debtor," the cautioner is entitled to have the principal "discussed," *i. e.* compelled by diligence or execution to perform the obligation so far as the creditor can enforce it.

SURETY, OR CAUTIONER.

Remedy upon joint engagement.

The *extent* of the difference between the laws of the two countries is here rather broadly stated. In Scotland we have recognised the "*beneficium ordinis*," of the Roman law; but all that is required is, that the creditor shall *constitute* his debt by decree

SURETY, OR CAUTIONER.

Remedy upon joint engagement.

against the principal debtor (if not constituted by bond in which he already has *parata executio*), and that he shall give a *charge* of payment to the principal. This charge need not be farther followed up by diligence against the person or effects of the principal before the cautioner is sued, and the debt may be constituted in the same action against both the principal debtor and the cautioner. Macdonell *v.* Ranken. 7th July 1829, 7 S. p. 845. Your committee approve of the law of Scotland on this point as here stated.—FAC. ADV.

This Committee are of opinion that the law of Scotland on this subject is preferable to what is stated to be the law of England. They may remark, however, that in discussion of the principal, it is not necessary to go as far as here stated. A charge of payment is considered as sufficient discussion, to entitle the party to apply to the cautioner.—WR. SIG.

In mercantile transactions the chief object of requiring a cautioner is to ensure to the creditor payment of his debt on the day fixed, without having recourse to a legal *compulsitor*. We are therefore of opinion that the "benefit of discussion" in the law of Scotland should be laid aside, and the rule of the English law adopted.—SOC. SOL.

We think cautionary obligations (when not otherwise stipulated) should be joint and several, and that the principal should not require to be "discussed." There does not seem any true principle for the Scotch rule of discussion, and as the cautioner is frequently the party most relied on he ought to fulfil his engagements, leaving him to adjust matters between himself and the principal.—FAC. PROC.

This statement of the Scotch law is not very lucid. What is meant, however, is, that in such cases the creditor is bound to take every step competent to *procure* performance from the principal in the first place.

The English rule seems preferable.—CONV. ROYAL BURGHS.

I prefer the English rule.—M. D. HILL.

Practically in Scotland the cautioner or surety is generally bound as a principal. I know of no inconvenience resulting from the Scottish law of suretyship, and I prefer it to the law of England.—A. BLAIR.

A guarantee is a contract by a person to pay the debt of another, if the principal debtor does not pay it when due. The creditor, it is submitted, has a right to institute proceedings against the surety immediately on the default of the debtor, leaving the surety to adjust with the principal debtor. It is different, however, where the engagement by principal and surety is joint: then both may be considered as principal debtors. By the French code (3021 Civ. C.) unless the cautioner has renounced the right, he may require the creditor to sue first the debtor.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

The creditor's interest should be first cared for, and the English law secures it most effectually. If thought desirable to give the surety or cautioner time, that can be arranged for specially in the contract of guarantee.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
SURETY, OR CAUTIONER. *His rights after performance.* 55. The surety, on performing the obligation, cannot have the benefit of bonds or judgments by or against the principal debtor, or other like securities which are extinguished by such performance. (Bond.) Gammon *v.* Stone, 1 Vez., 339.	The cautioner, on performing the obligation, is entitled to an assignation of the creditor's claim on the principal debtor, and on co-cautioners, and of all the securities of every description held by the creditor from or against the principal debtor, and not subject to any other claim of the creditor. 1 Bell's Comm., 348.

Your committee have no remark to submit upon this point, except that the cautioner who obtains an assignation from the creditor in going against his co-cautioners, can only do so to the extent of thus operating more readily his *pro ratâ* relief, otherwise *ex lege* competent from the co-cautioners, including deficiencies that may arise from bankruptcies of one or more of their number. They think the Scottish rule more just, and attended with great convenience and advantage to all parties.—FAC. ADV.

This Committee approve of the rule of the law of Scotland, and are of opinion that it should not be altered.—WR. SIG.

Equity entitles the cautioner, on performing the obligation, to be put into the place of the creditor, to enable him to operate his relief against the debtor. In this particular, therefore, the law of Scotland should be followed. In taking securities and doing diligence against the person or the estate of the debtor, the creditor is presumed to act not merely for his own benefit, but also for the benefit of any other party bound for the debt, and entitled to relief against the principal debtor. As the right of relief arises not more by virtue of any direct obligation of relief than by the principles of the law of "Mandate," the cautioner paying the debt is entitled in equity to step *into the shoes*

of the original creditor as to debt and securities. In many cases, too, the cautioner interposes, in reliance upon securities held by the creditor.—Soc. Sol.

Surety, or Cautioner.

His rights after performance.

The Scottish rule is unquestionably the most equitable, both to the cautioners and the general body of creditors. The English rule leads to the practical absurdity, that the solvent cautioner, by fulfilling his own obligations, destroys his own means of relief—Fac. Proc.

The Scottish rule is preferable.—Conv. Royal Burghs.

The English rule is monstrous. The Scotch rule, on the other hand, seems to me well framed for arriving at the justice of the case.—M. D. Hill.

Once the creditor has been paid by the surety, his securities, bonds, or judgments are extinguished, and therefore he has no more rights to transfer to the surety.—L. Levi.

We prefer the law of E. and I.—Dublin Ch. Comm.

Assimilate to Scotland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

S. adopted.—Law of D. & C. Comm.

S. right.—Manchester Ch. Comm.

The Scotch rule undoubtedly is the only equitable and right one.—E. Heath, Liverpool Ch. Comm.

ENGLAND AND IRELAND.	SCOTLAND.
56. An unqualified discharge of one co-surety is a discharge of all. Nicholson *v* Revill, 4 Ad. and Ell., 675.	An absolute discharge of one co-cautioner operates as a discharge of the others only to the extent of the proportion which the one discharged should have contributed in the relief of the others. 1 Bell's Comm., 359.

Surety, or Cautioner.

Discharge of one of several sureties or cautioners.

Your committee think it well worthy of consideration, whether the rule of the law of England is not preferable on this point, and whether it should not be adopted in Scotland.—Fac. Adv.

This Committee approve of the law of Scotland, which seems to them to be the most equitable.—Wr. Sig.

The rule of the law of Scotland is here also more equitable, and should be followed.—Soc. Sol.

Upon the whole, the English is the sounder rule, as the creditor should do nothing which can interfere with the rights of the cautioners, who often agree to a joint obligation, trusting to the supervision of one of their number. The discharge of one co-cautioner should therefore in the opinion of the majority, liberate the whole, unless intimation is given to the others, and they agree to continue bound. (See No. 68.)—Fac. Proc.

The Scottish rule is preferable.—Conv. Royal Burghs.

I do not see why the unqualified discharge of one co-surety should have any effect beyond releasing that surety, as between the plaintiff and himself. I would let every other liability remain as before. This is all the plaintiff means, and any other consequence is a surprise upon him, against which he might have guarded himself if he had known the state of the law.—M. D. Hill.

As the guarantee by one or more persons for a debt is one entire transaction, so the discharge of one co-surety is a discharge of all. Where there are more sureties than one, unless otherwise expressed, each would be responsible for the whole; therefore to hold that the discharge of any of them is only a discharge to the extent of the proportion of his contribution, would be to reduce the entirety of responsibility of all the co-sureties. Whatever agreement may be entered into by the sureties amongst themselves, the creditor regards each surety as responsible for the whole debt.—L. Levi.

We prefer the law of E. and I. A co-surety of course takes into consideration that he has a partner in his liability, and if that partner is released an injustice is due to him.—Dublin Ch. Comm.

Assimilate to Scotland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

E. adopted.—Law of D. & C. Comm.

S. right.—Manchester Ch. Comm.

Where the intention is not clearly expressed in such absolute discharge of one that the *whole* debt is cancelled, I think it better to construe, with the Scotch law, that only a proportion of the liability of the other cautioners is discharged.—E. Heath, Liverpool Ch. Comm.

ENGLAND AND IRELAND.	SCOTLAND.
57. The discharge of a written guarantee may be proved without writing. See per Parke B., 6 Exch., 851.	The discharge of a written guarantee can be proved only by the writing or oath of the creditor. But when the implement of the principal obligation admits of being proved by parole, such implement by the cautioner may be so proved.

Surety or Cautioner.

Evidence of discharge.

Your committee do not know any authority for the rule stated, further than to this extent, viz., that wherever performance of the obligation (as, *ex. gr.*, an obligation to deliver goods) is proveable by parole, as in a question with the principal, it is also

SURETY, OR CAUTIONER.

Evidence of discharge.

proveable by parole in a question with the cautioner, as guarantee. And they can see no reason for altering the Scottish rule which seems founded on obvious grounds both in law and in equity.—FAC. ADV.

This Committee approve of the rule of the law of Scotland, which permits a cautioner to prove performance by the same evidence, which would have been available to the principal.—WR. SIG.

It seems to be founded in reason that the accessory obligation should be discharged by implement of the principal obligation, and if such implement can be proved by oral evidence, the accessory obligation is thereby necessarily extinguished.

The rule of the English law seems much broader than this—admitting oral evidence to cut down every written guarantee, irrespective of the character of the principal obligation —a rule we do not approve of.—SOC. SOL.

The Scotch rule seems more consistent with principle. In general, where writing is required to constitute the obligation, it ought to be required for a discharge. (See No. 67.) —FAC. PROC.

The Scottish rule is preferable.—CONV. ROYAL BURGHS.

I think the production of a written discharge should be essential.—M. D. HILL.

Where the discharge may be proved orally it is sufficient.—L. LEVI.

A written guarantee should only be discharged by surrender or by writing.—DUBLIN CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

The English and Scotch law appear practically to arrive at the same end.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
58. Remedies against sureties cease at the end of six or twenty years from the time at which the right to sue accrued, according to the nature of the instrument.	The liability of a cautioner ceases at the end of seven years from the date of the obligation, if he is bound by a bond, or written contract, for a sum of money, and if the requisites of the Act 1695. c. 5 have been complied with.

SURETY, OR CAUTIONER.

Period of liability.

The cases of *continuing* guarantees, judicial cautionary, cautionary for the performance of an office, &c., form exceptions to the septennial limitation. Your committee approve of the law of Scotland on this subject.—FAC. ADV.

This Committee are of opinion that it would be more advisable to alter the law, as applicable to cautionary obligations, and to make the right to proceed prescribe in six years from the date the right to sue accrues.—WR. SIG.

The existing limitation of seven years, fixed by the Act 1695, c. 5, should be made six years from the date the right to sue accrues. We refer to the remarks before made on "Prescription."—SOC. SOL.

Already noticed, under Prescriptions, No. 34 *et seq.*—FAC. PROC.

The Scottish rule is preferable.—CONV. ROYAL BURGHS.

I before said that I think all terms of prescription are too long.—M. D. HILL.

See Limitation of Actions.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred, but with reference to Answer to No. 34.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

On general grounds I prefer the Scotch rule.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
59. A person is not bound by, but he may enforce performance of, a contract entered into by him while under the age of twenty-one years, whether alone or in conjunction with others.	*A pupil, i.e.* a male under fourteen, or a female under twelve, years of age, cannot enter into a contract with any effect whatever. But the contracts of a *minor, i.e.*, a person beyond the years of pupillarity but between fourteen and twenty-one years of age, who acts as a trader, either alone or in partnership with others, are effectual even to the extent of rendering him liable to imprisonment. 1. Bell's Comm., 327. 2. ————166. n. 4.

DEBTOR AND CREDITOR.

Minors.

(59—71. DEBTOR AND CREDITOR.)—From the frequency with which obligations of debt are incurred between parties resident in different parts of Britain, the inconveniences arising from differences in the Mercantile Law of England and Scotland, are perhaps as frequently felt in this department as in any other department of the law.

DEBTOR AND CREDITOR.
Minors.

In some respects, also, fewer obstacles to assimilation present themselves here than elsewhere, from the circumstance that it is chiefly the *obligation* and *jus crediti* inhering in the person which will fall to be dealt with, unfettered, at least to a great extent, by the laws either of moveable or of heritable property.

(No. 59.) Besides the difference stated, there is the Scottish law of restitution on the ground of *minority and lesion*, which applies not only to acts of the minor affecting his estate, but to obligations affecting his person.

In assimilating the laws, it is thought that the Scottish rule sustaining a minor's obligations in trade, is a more beneficial mercantile rule than that of England, which denies them all effect.—FAC. ADV.

There is another principle in the law of Scotland, not here stated, viz., the restitution to minors, on the ground of minority and lesion, and which applies both to acts affecting his estate, and to personal obligations.

This Committee are of opinion that the law of Scotland ought not to be changed.—WR. SIG.

It is not here stated whether the law of England makes any distinction between the ages of pupillarity and minority.

So far as regards minority proper, the law of Scotland relieves minors from contracts on the ground of minority and lesion.

But if minors enter into trade, and act as if of full age, they are liable in implement of their contracts as other traders are, and reference is made to "Bills and Notes," No. 21. —SOC. SOL.

(See Remarks No. 21.) The Scottish rule is more equitable and more fitted to the course of current transactions than the English.—FAC. PROC.

The Scottish rule seems preferable, if minors are to be allowed to enter into trade.—CONV. ROYAL BURGHS.

I prefer the Scotch rule; but I think in all cases a minor should be liable where his appearance is that of a person of full age, unless knowledge of the minority can be brought home to the plaintiff.—M. D. HILL.

I should not desire to see any change in the Scottish law, which in the case of married women seems to differ little from the spirit of the law of England.—A. BLAIR.

The exemption of liability by minors for their own acts, is a privilege granted as a protection to their inexperience. Yet after a certain age minors will find in such protection an actual hindrance to their interest. It would seem scarcely necessary to shield a person of 20 years of age, and allow him to bear all the responsibility at 21. In Scotland a minor from 14 to 21 years of age may do any contract for his own benefit, and may even be made a bankrupt. Whilst the English law is too restrictive till 21, the Scotch law is rather too lenient in admitting children of 14 to be liable for their acts. In France at 18 years of age a minor may be emancipated, and may trade on his own account by permission of his parents or by a family compact. According to the Portuguese code (625) a son interested in his father's business is deemed of age at 18. In Spain (415) a minor may be emancipated at 20. It would seem expedient to reduce the age of majority to 18, at least for all that has reference to acts of trade. This observation especially applies to the Australian colonies, where, owing to climate and physical exertions, the moral organization of man acquires a precocious development. No inconvenience was felt in France when the age of majority was reduced from 25 to 21. It is a question of considerable importance also for those nations, such as Austria, Prussia, and Holland, where the age of majority is still at 25 or 24.—L. LEVI.

We prefer the law of E. and I. for the reasons stated in No. 21.—DUBLIN CH. COMM.

The Scotch law preferred.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

(59. 60. 62. 63. 64.) As the question here involved does not peculiarly relate to commerce I give no opinion thereon.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
60. If a married woman, living apart from her husband, and not possessed of separate estate, engage in trade, either alone or in partnership, she is not, nor is her husband unless his consent be proved, liable in respect of any contract entered into by her in the course of such trading; subject, however, to the exception of the wife being liable, if the husband have abjured the realm, or been transported, or if her trade be carried on in the City of London.	A married woman living separate from her husband, who engages in trade with his acquiescence, may create obligations or debts in respect, or in the course of her trading, which may be enforced against herself and her husband.

DEBTOR AND CREDITOR.
Married Women.

It is not correct to state that a married woman separated from her husband binds him by her contracts in trade, &c. She binds only herself in relation to her separate

DEBTOR AND CREDITOR.

Married Women.

affairs, unless there be an express or implied *prepositura* from the husband. By her dealings under a *prepositura*, she binds her husband, and not herself.

In Scotland the law is not attended with inconvenience, and it produces this benefit, that under it, a wife living separate from her husband may creditably earn a livelihood. —FAC. ADV.

This Committee are of opinion that the rule of the law of Scotland ought to be continued. They think it preferable to the law as stated to be that of England, which seems in some respects partial, as it would appear that the law of the city of London is different from other parts of England. It is however doubtful if the law of Scotland is correctly laid down in this query. This Committee do not understand that a married woman, living separate from her husband, binds him by her contracts in trade. As a general rule, undoubtedly, if there is an express or implied proposition from the husband, he will be liable, but otherwise she only binds herself in relation to her separate affairs.—WR. SIG.

We refer to what is before stated on the subject of "Bills and Notes," No. 22. The statement of the law of Scotland here given appears to us to be incorrect. If a married woman enters into trade with the acquiescence of her husband, though living separate from him, her transactions will only bind him, and will not bind her. In such a case she acts as *institor*.—SOC. SOL.

(See No. 22.) We prefer the Scottish rule to the full extent in so far as the wife is concerned; but where the debt has been contracted in the course of a business carried on by the wife, living separate from her husband, and in her own name, and therefore on the sole credit of the wife and her separate property, we do not see on what principle the husband should be held liable, unless he lays claim to his wife's assets as a part of the goods in communion. The husband should be liable for debts of his wife incurred in trade carried on by her with his consent or acquiescence, and also where the separation is attributable to him, and he does not support his wife. We cannot understand why what is good and rational in one place should be illegal in another, and *vice versâ*.—FAC. PROC.

This is not the law of Scotland. If a wife carry on business with her husband's consent, she can only bind him, not herself.—CONV. ROYAL BURGHS.

I think a married woman living apart from her husband should for all purposes of debtor and creditor be considered as a *feme sole*, and that property acquired by her after her separation should be protected against the claims of her husband.—M. D. HILL.

See No. 59.—A. BLAIR.

In the case of a married female, there does not appear any just cause why she could not trade and be liable for her acts. If she contract obligations she should be bound by them. If she is not separated from her husband both the husband and herself should be liable in respect of any contract incurred by her. When she is separated from her husband, or where her husband has abjured the realm or has been transported, she should be herself bound by her own acts.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The Scotch law preferred.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted, with these alterations—omit the words "with his acquiescence," and "*her husband.*"

The Committee think that in all case where a married woman living apart from her husband contracts debts under such circumstances as that her husband would not be liable, she ought to be personally liable.—LAW OF D. & C. COMM.

S. The Board approved of the facility herein described when assented to by the husband; but in cases where married women, living apart from their husbands, commence trading without such assent, the law ought to shield husbands from debts contracted in such trading. —MANCHESTER CH. COMM.

See No. 59.—E. HEATH, LIVERPOOL CH. COMM.

DEBTOR AND CREDITOR.

Administration of the estate of a deceased person.

61. ENGLAND AND IRELAND.

Debts are of different degrees of legal importance, as debts of record, debts by specialty, and debts by simple contract.

Assets are divisible into legal and equitable.

In the administration of legal assets, debts of a higher degree must be paid before those of an inferior degree. In the administration of equitable assets, all debts are payable *pari passu*.

SCOTLAND.

Debts of every description, whether constituted by judgment, bond or bill, or on open account, so far as they are not secured by a charge on specific property, or by diligence used in the lifetime of the debtor, are payable out of all his real and moveable property, *pari passu*.

There is no distinction between legal and equitable assets.

Although all debts are considered *equally binding* in Scotland, yet some are entitled to a preference when there is a deficiency of personal estate, such as debts due to the crown, deathbed and funeral expenses, and wages to domestic and farm-servants.

Practically, little inconvenience arises from the difference of the laws in this matter. The rules are well known and applied when the personal estate is realised. Their assimilation would be attended with considerable difficulty.—Fac. Adv.

Debtor and Creditor.

Administration of the estate of a deceased person.

This Commitee here again approve of the Scotch rule in preference to the English; but it ought perhaps to be explained that debts due to the Crown, deathbed and funeral expenses, and wages to servants, are preferred to other debts.—Wr. Sig.

In Scotland there are no *degrees* of personal debts—one degree ranking preferably to another. The manner in which the debt is constituted, by decree, bond, bill, or open account, does not alter the *character* of the debt as personal. Unless the creditor has obtained a security over heritable or personal property, and completed it according to the rules of law, or has secured a preference by diligence in security, or in execution, against the heritable or personal property of the debtor, all personal claims are ranked *pari passu*.

We do not think this state of the law in Scotland ought to be changed, because it would deeply affect the common law and statutory rules relating to diligence against the heritable and personal estate, and rankings, as well at common law as in Bankruptcy. —Soc. Sol.

The fewer distinctions and the greater simplicity of the Scottish are a sufficient recommendation of that system. We think all creditors not holding a special security should rank *pari passu*, and that the distinctions between legal and equitable assets should be abolished.—Fac. Proc.

The Scottish rule seems preferable.—Conv. Royal Burghs.

I prefer the Scotch rule.—M. D. Hill.

Change of the law of Scotland does not seem necessary or desirable.

Upon the points named in 61 to 71, the equitable jurisdiction of the Court of Session, as contradistinguished from the practice of the Common Law Courts of England, seems to me apparent.—A. Blair.

No distinction should be made on the different descriptions of debts, except those secured by a charge on specific property. There can be no moral distinction between legal and equitable assets.—L. Levi.

We prefer the law of E. and I.—Dublin Ch. Comm.

Assimilate to Scotland.—Leith Ch. Comm.

Scotch preferred.—Berwick Watch Comm.

S. adopted.—Law of D. & C. Comm.

S. This is just.—Manchester Ch. Comm.

I prefer the Scotch law.—E. Heath, Liverpool Ch. Comm.

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62. ENGLAND AND IRELAND.

Creditors of a deceased debtor may, by suit in Chancery to which his heir or devisee is party, obtain payment of their debts out of his real estate at any time previous to alienation by the heir or devisee.

SCOTLAND.

If the real estate of a defunct, although it be in possession of his heir, be adjudged within three years after his death for his own debts, such adjudications are preferable to those which may be expede for the debts of the heir. But after the three years, this privilege ceases, and the proper creditors of the heir may thereafter get a *pari passu* preference with the creditors of the defunct.

Debtor and Creditor.

Liability of real estate of a defunct.

The statement in this article relates to the laws affecting heritable estate. Your committee do not think that any change on the law of Scotland on this subject is desirable.—Fac. Adv.

This article refers to the laws affecting real or heritable estate. This Committee are of opinion that no change should be made on the laws affecting real property.— Wr. Sig.

This is a statutory rule in the law of Scotland, founded on the expediency of securing the estate of the proper debtor for the payment of his debts, provided the creditors make good their preference within three years. But, after the lapse of three years, the creditors of the heir should not be prejudiced by creditors of the ancestor carrying off the whole estate, and both classes of creditors are then put upon an equal footing.

We think it would be most inexpedient to allow the creditors of the ancestor a preference over those of the heir at any time previous to alienation by the heir. But this point enters into the consideration of the feudal law of Scotland, and does not properly fall within the limits of these observations.—Soc. Sol.

We think the principle of the Scottish law sound, but that the period should be shortened in consequence of the facilities of communication.—Fac. Proc.

The Scottish rule seems preferable.—Conv. Royal Burghs.

I think a period of limitation is proper, and that three years is one of sufficient length, and I would make it operate as an extinguishment of the debt.—M. D. Hill.

See No. 61.—A. Blair.

It is just to set a limit to the preference of creditors of a deceased debtor to payment out of his seal estates, and to fix a time when the debts of the heir are chargeable *pari passu* with the debts of the deceased debtor. Equity to the creditors of the heir demands that the creditors of the deceased should enforce payment on the estate within a certain

DEBTOR AND CREDITOR.

Liability of real estate of a defunct.

time, and that otherwise they should be held to have extended their trust to the heir of the deceased.—L. LEVI.

We prefer the law or E. and I.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

Joint. Thus.—(*English*) "Creditors of a deceased debtor may by suit in Chancery to which his heir or devisee is party, obtain payment of their debts out of his real estate at any time within three years, if previous to alienation by the heir or devisee;—(*Scotch*) but then after the three years this privilege ceases, and the proper creditors of the heir may thereafter get a *pari passu* preference with the creditors of the defunct.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

See No. 59.—E. HEATH, LIVERPOOL CH. COMM.

DEBTOR AND CREDITOR.

Retainer by Executor.

63. ENGLAND AND IRELAND.

An executor or administrator can retain for a debt due to himself out of equitable assets, only *pari passu* with other creditors, and out of legal assets, only in preference to all other creditors of an equal or inferior degree.

SCOTLAND.

An executor may retain for a debt due to himself, to the exclusion of all other creditors of the deceased who have not used diligence within six months after the death of the defunct.

It seems a *proper provision* that some short time shall elapse after a debtor's death, during which the race of the diligence of creditors should be stayed, without impairing their preferences. When such period elapses, the executor himself, if a creditor, should not be in a worse position than other creditors either present or contingent, but should be entitled to pay or relieve himself just as he may be compelled to pay or relieve them.

The statement of the law of Scotland in Art. 64 is not very distinct, and is laid down too generally as to engagements said to be "not yet broken." Understanding, however, that the expression applies to current obligations not yet exigible, your committee approve of the law of Scotland.—FAC. ADV.

(63, 64, and 65.) This Committee conceive that it would be proper and reasonable that some time should elapse after the death of a party, during which all creditors may have an equal right to use diligence against his estate, so as to make them all rank *pari passu*. They think, however, that there is no reason why the executor should be debarred from taking such proceedings more than any other creditor. They therefore approve of the rule of the law of Scotland.—WR. SIG.

As in Scotland there is no distinction made between equitable and legal assets, it seems just that the executor should be allowed to pay himself by retention, unless the claims made within six months exceed the amount of the executry estate, in which case he is only entitled to rank *pari passu*. The executor is only bound to pay creditors upon decree, and it is sufficient to interpel him from applying the fund to the prejudice of creditors, if he be cited to process within six months.

After it becomes apparent that the estate is insolvent, the executor should distribute the funds at the sight of the Court.

We do not think any change should be made upon the rule of the Scotch Law.—SOC. SOL.

The executor being a trustee, we think that he should not have right to retain for a debt due to himself in preference to the deceased's other creditors, as his perfect knowledge of and control over the affairs gives him a great advantage over other creditors; and, farther, if the estate appears to be insolvent, we think he should be bound to give notice to all the creditors. We think there should be no distinction between different classes of unsecured debts.—FAC. PROC.

We do not think it would be expedient to alter the law of Scotland, unless perhaps to extend the time to twelve months.—CONV. ROYAL BURGHS.

I would put all assets on the footing of equitable assets.—M. D. HILL.

See No. 61.—A. BLAIR.

An executor or administrator being no more than an agent, does not acquire any preferential right over any part of the assets, and can only retain for a debt due to himself *pari passu* with other creditors.—L. LEVI.

We prefer the Scotch law. We think it very desirable to insist on claims on a deceased person being promptly brought under notice of his representative, not merely for the information of that representative, but to deprive him any excuse for delaying the distribution of effects.—DUBLIN CH. COMM.

The English law right.—LEEDS CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM

English and Irish preferred.—BERWICK WATCH COMM.

Joint. Thus.—An executor or administrator can retain for a debt due to himself out of assets whether contingent, unliquidated, or certain, only *pari passu* with other creditors, except when such creditors of the deceased have not used diligence within six months after the death of the defunct.—LAW OF D. & C. COMM.

See No. 59.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.

64 And he cannot retain for a contingent or unliquidated debt due to himself.

SCOTLAND.

And this even to the effect of securing himself in relief of engagements undertaken for the deceased, and not yet broken.

2 Bell's Comm., 84.

DEBTOR AND CREDITOR.

Retainer by Executor.

See No. 63.—FAC. ADV.

See No. 63.—WR. SIG.

As the executor is allowed to pay himself by retention, there does not seem to be any peculiarity in his being also allowed to secure himself relief from cautionary obligations undertaken for the deceased. The debt would be due to the principal creditor; at least, on the death of the debtor the cautioner was entitled to be relieved, and the fulfilment of one or other of these obligations was within the executor's power, so long as there appeared to be free funds in his hands. So far as we are aware, the rule in Scotland stands upon the dictum of Professor Bell, and though the principle of retention seems applicable to cautionary engagements for pure or future obligations, it may be doubted how far it is applicable to cautionary for contingent obligations.

We do not think it would be expedient to make any change upon the Law of Scotland.—SOC. SOL.

See No. 63.—FAC. PROC.

We do not understand what meaning is here attached to the words "*and not yet broken.*"—CONV. ROYAL BURGHS.

I prefer the English rule.—M. D. HILL.

See No 61.—A. BLAIR.

See No. 63.—L. LEVI.

See No. 63.—DUBLIN CH. COMM.

The English law right,—LEEDS CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

See No. 63.—LAW OF D. & C. COMM.

See No. 59.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.

65. An executor or administrator may, before proceedings are commenced against him, pay any creditor in full in preference to other creditors of an equal or inferior degree.

SCOTLAND.

An executor cannot prefer any of the creditors over others who claim within six months after the debtor's death.

But the claimants within that period being satisfied, the executor may thereafter pay in full the other creditors as they apply.

DEBTOR AND CREDITOR.

Power of Executors to pay Creditor preferentially.

See No. 63.—FAC. ADV.

See No. 63.—WR. SIG.

See No. 63.—SOC. SOL.

The statement here as to the Scotch law ought to be modified, to the effect that the executor cannot pay in full when he knows of other debts, which may render the estate insolvent, Gardner (Fac. Coll., 28 Nov. 1810.) With this modification, and with a view of preventing fraud and favour, we prefer the Scottish rule, requiring a lapse of time before an executor can pay *primo venienti.*—FAC. PROC.

The period should be extended to twelve months.—CONV. ROYAL BURGHS.

I prefer the English rule.—M. D. HILL.

See No. 61.—A. BLAIR.

There does not appear any reason why the executor or administrator should have authority to give preference by payment in full to any creditor. When all known claims are satisfied, then he may pay in full the other creditors as they apply.— L. LEVI.

For the same reasons as in 63 we prefer the law of S.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

The Scotch law fairest.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.

66. The *signature* in all writings must be proved on the part of the person adducing them in evidence.

SCOTLAND.

The *signature* in all writings executed with the formalities prescribed by statute, and also in bills of exchange and promissory notes, is presumed to be genuine until the party calling it in question prove the contrary.

Writings holograph of the granters, or granted in commercial affairs, or followed by implement to some extent, are valid if the genuineness of the signature be proved, but not otherwise.

DEBTOR AND CREDITOR.

Proof of signature.

DEBTOR AND CREDITOR.

Proof of signature.

And all other kinds of writings granted by private parties are invalid, although signed by the granters, if the execution of them be not authenticated by the statutory formalities.

The Scottish rule that attested deeds and mercantile and holograph writings prove themselves until challenged or cut down, as judgments do in England, is found to be attended with many conveniences, and to lead to no practical evil. It often renders a trial by jury or parole proof unnecessary. Your committee think that the law of Scotland should remain unchanged in this particular.—FAC. ADV.

This Committee are decidedly of opinion that the rule of the law of Scotland ought to be adhered to. They have never known any inconvenience arise from it. They think great inconvenience would arise if it were altered.—WR. SIG.

The rule of the English Law does not seem to us to be well adapted for a commercial country.

The first statement of the Scotch Law seems to be indispensable for the protection of rights of property, and in order to establish that confidence which gives skill, energy, and capital to commerce. Trade would be seriously hampered, if a banker or merchant, before receiving a bond or bill, must possess himself of evidence to enable him to prove, if called on, that the signature is genuine.

As a question in the Law of Evidence, there does not seem to be any injustice or misapplication of principle in laying the burden of disproving the signature upon the party making the challenge.

The second statement of the Law of Scotland may be correct, but the amount and degree of proof necessary to be adduced always depends upon the issue between the parties, and it would be difficult to legislate upon this subject.

The third statement of the Scotch Law, may also be correct, if applied to all other kinds of writings of *importance*.—SOC. SOL.

This is rather a question of practice than of principle. The practical convenience of the Scottish rule has been found to be very great, and we understand the reverse has been the case in England; we therefore prefer the Scottish rule that formally executed deeds and bills of exchange prove themselves, and are rather disposed to think that the same rule might be extended to writings *in re mercatoriâ*, or partly implemented; any rule to be adopted should be preceded by more full inquiry as to the results. The practical inconvenience resulting just now from the want of uniformity in the formalities required in England and Scotland respectively is daily felt, and will go on increasing as the number of transactions and deeds of a mixed character are multiplied.—FAC. PROC.

The Scottish rule is preferable. It would be going back for centuries to adopt in Scotland the English rule of proving signatures.

It appears to us that the party challenging writings of the description mentioned the second paragraph, fails to disprove them.—CONV. ROYAL BURGHS.

I think the experience of Scotland, that no important evils have arisen from the adoption of their rule, justifies the experiment in England, as the change, if practicable, must be admitted to be very desirable. But I think that in very few instruments ought any formalities to be prescribed by statute, except that of a signature; but where formalities are considered necessary, I know of no reason for an exception in favour of commercial affairs. A holograph instrument is certainly a security for its having been read and considered by the party making it, and it may be right to give it some privileges. But I am not aware of any reason for confining these privileges to matters of commerce.—M. D. HILL.

See No. 61.—A. BLAIR.

Primâ facie the signature in all writing is presumed to be genuine. It should be on the part of the person calling the signature in question to prove the contrary.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The Scotch law preferred.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

The signature in all kinds of securities or documents should be presumed to be genuine, until the party calling it in question prove the contrary. No statutory formalities should be required.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

The Scotch law fairest.—E. HEATH, LIVERPOOL CH. COMM.

	ENGLAND AND IRELAND.	SCOTLAND.
DEBTOR AND CREDITOR. *Evidence of express discharge.*	67. Express discharge (without payment or performance) of contracts in writing not under seal may be oral. (A promissory note.) Foster *v.* Dawber. 6 Exch. 839.	Express discharge (without payment or performance) of contracts in writing of any kind can be proved only by writing or oath of the creditor.

The rule in Scotland seems the more safe and equitable.—FAC. ADV.

This Committee prefer the rule of the law of Scotland.—WR. SIG.

DEBTOR AND CREDITOR.

Evidence of express discharge.

We refer to what has been before stated regarding summary diligence and the exclusion of oral proof.

And as a general rule in the Law of Evidence, it seems much safer to require written evidence to cut down a written contract than to admit oral evidence for that purpose.—SOC. SOL.

(See No. 57.) The Scottish rule is preferable, and more in accordance with the civil law.—FAC. PROC.

The Scottish rule is preferable.—CONV. ROYAL BURGHS.

I think express discharge, without payment or performance, of contracts in writing, or under seal, or not, should only be proveable by the production of evidence in writing or by possession of the instrument.—M. D. HILL.

See No. 61.—A. BLAIR.

Discharge of a written contract may be proved by parol or by writing, except for contracts under seal having reference to real estates.—L. LEVI.

We prefer the law of S. For the same reasons as we applied to guarantee.—DUBLIN CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM,

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

The Scotch law safest.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
68. Discharge of one of several joint debtors in terms which do not reserve the remedy against the other debtors operates as a discharge of all. Co. Litt., 232. a. (Joint acceptors of a note.) Rex *v.* Bayley, 1 Carr. and P., 435. (Giving time to one co-obligor.) Oakeley *v.* Pasheller, 4 Clark and Finn. 207.	Discharge of one of several joint debtors does not release the others further than their right of relief against the party so discharged may be affected.

DEBTOR AND CREDITOR.

Effect of discharge of a joint debtor.

Here, again, it seems to your committee that the rule in Scotland as regards persons who are joint debtors in substance and not merely in form, is the more equitable. Provided the *ultimate obligation* of a debtor is not rendered more onerous *on him*, it seems *jus tertii* for him to plead that the creditor has been favourable to or has exacted less than his due from a co-obligant. But, if a party bound as co-obligant to the creditor be known to him to be only a cautioner or surety, he is entitled to the equities of a surety; and the case will then fall under the remark on No. 56 *supra* (*Principal Debtor and Cautioner.*)—FAC. ADV.

(68. and 69.) This Committee here again approve of the law of Scotland. It appears to them to be equitable.—WR. SIG.

We refer to what has been stated under "Principal Debtor and Cautioner," No. 56.—SOC. SOL.

(See No. 56.) On the whole, the majority of us prefer the English rule.—FAC. PROC.

The Scottish rule is preferable.—CONV. ROYAL BURGHS.

I do not think the discharge of one of several joint debtors ought to release the others, or in any way affect their rights as against the joint debtor so released.—M. D. HILL.

See No. 61.—A. BLAIR.

If debt is joint, the discharge of one without reserve is necessarily discharge of all. So it is in France (1285 Civ. C.)—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEEDS CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

(68. and 69.) The Scotch law fairest, as nobody can be aggrieved thereby.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
Exoneration of one of several joint debtors before breach would exonerate all; so would satisfaction from one after breach. So everything which gives one an answer to the action, except personal discharge, as bankruptcy—insolvency. But a covenant not to sue one does not release the others. See No. 68.—FAC. ADV. See No. 68.—WR. SIG.	Anything done by a creditor, whereby the right of relief, which one of several joint debtors is entitled to, is detrimentally affected, has the effect of extinguishing the creditor's claim against such debtor to that extent, but no further.

DEBTOR AND CREDITOR.

Effect of discharge of a joint debtor.

DEBTOR AND CREDITOR.

Effect of discharge of a joint debtor.

The same reference may be made as in the preceding, the principle being the same.—SOC. SOL.

We think the Scottish rule, to the limited extent here stated, preferable. The English appear to have pushed their otherwise more equitable rule to a series of details in which the real principle seems to have been lost sight of. (See No. 55.)—FAC. PROC.

The Scottish rule is preferable.—CONV. ROYAL BURGHS.

I would apply the same principle here. Satisfaction from one joint debtor after breach, must of course exonerate all as regards the creditor; but it ought to leave the other joint debtors liable to the one making satisfaction for their rateable amounts, and ought moreover to arm him with all the remedies of which the creditor might have availed himself.—M. D. HILL.

See No. 61.—A. BLAIR.

The exception as to a covenant not to sue is not a renunciation of right as a discharge or exoneration.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMMM.

E. adopted.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

See No. 68.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
70. To an action for the recovery of specific property by the owner or his assignees in bankruptcy, the existence of a debt due from the owner to the person, in whose possession the property is, affords no defence unless there is a lien or pledge for that debt.	A person who has in his lawful possession the property of another person who becomes bankrupt has a right of retention thereof for any debt due to him from the owner of the property

DEBTOR AND CREDITOR.

Retainer by Creditor having property of bankrupt.

The right of retention, by the law of Scotland, is incorrectly stated in this article. Goods pledged under a special contract can only be retained by the pledgee for the specific debt secured by the contract. The right of retention or lien is admitted only when it arises from contract, or when it has been introduced by a custom of trade. Your committee approve of the law of Scotland on this point.—FAC. ADV.

The right of retention by the law of Scotland arises only from contract, or custom of trade; and in this view this Committee approve of the law.—WR. SIG.

This may be a correct statement of the law of Scotland, but, according to the nature of the contract under which the possession of the property was obtained, the rule might require to be differently stated. We refer to the remarks on "Effect of Contract on Ownership," Nos. 2, 3, and "Lien," No 45.—SOC. SOL.

(See answer No. 45.)—FAC. PROC.

This seems, perhaps, too broad a statement of the law of Scotland *in every case.*—CONV. ROYAL BURGHS.

I prefer the English rule, which follows consistently on our discouragement of general liens.—M. D. HILL.

See No. 61.—A. BLAIR.

It is a natural right of a party who has on hand the property of one who becomes bankrupt and owes a debt to him to retain such. It is a lien which he has, notwithstanding the property was not pledged with him for that debt.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

The Scotch law fairest.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
71. The creditor at whose suit the goods of a debtor are first seized is entitled to be first paid out of the debtor's goods.	When diligence or execution has been executed against a debtor, so as to make him notour bankrupt, all arrestments and poindings used within sixty days before or four months after such bankruptcy are ranked *pari passu.*

DEBTOR AND CREDITOR.

Rights of competing execution creditors.

The principle of the law of Scotland seems to be right, and ought not to be changed. Your committee, under this head of debtor and creditor, may allude to an important difference between the law of Scotland and that of England, not specially mentioned by the Commissioners, viz., the diligence of arrestment, which has been found very beneficial in Scotland, and to which it is understood there is nothing corresponding in England, except by the local custom of London.—FAC. ADV.

DEBTOR AND CREDITOR.

Right of competing execution creditors.

This Committee approve of the rule of the law of Scotland.

It may be right to mention that there is another diligence known in Scotland, called arrestment, which they believe is not known by the law of England, but which is a valuable privilege.—WR. SIG.

This is a statutory rule of the Law of Scotland, and forms an important part of the Scotch Bankruptcy Law—a department excluded from present consideration.—SOC. SOL.

We think the principle of equalization sound, and experience shows the absolute neces. sity of preventing preferences on the eve of bankruptcy. The necessity of such a rule is every day becoming more apparent. We therefore prefer the Scottish rule.—FAC. PROC.

The rule of Scottish law is preferable. Our law was formerly the same as in England, but was altered years ago by the Bankrupt Statutes.—CONV. ROYAL BURGHS.

This is part of a very large question. It has been thought by some whose opinions are of weight, that as regards traders, the remedy by execution should be abolished, and a petition in bankruptcy be substituted for it in all cases. Until, however, the law be so, I prefer the English rule on the ground of simplicity.—M. D. HILL.

See No. 61.—A. BLAIR.

It is unjust that a creditor, by a sudden seizure on the debtor's goods, should be entitled to be first paid out. An execution is a public act which constitutes the debtor a bankrupt. The debtor's property is thenceforth to devolve on all creditors in their rateable proportions.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to Scotland, with this qualification, viz., period of sixty days to be materially shortened, say twenty days.—LEEDS CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

No answer.—LAW OF D. and C. COMM.

The Scotch law fairest, and on the whole safest for the general interest, though it may occasionally prejudice *boná fide* and honest individual creditors.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
72. A private partnership of two or more persons is not recognised in law separately from the associated individuals who compose it.	A private partnership, or company, of two or more partners, is a *separate person* in law.

PRIVATE PARTNERSHIPS.

Their nature.

Your committee are of opinion that the Scottish doctrine, that a company has a separate *persona standi* in law, is attended with great practical advantage. In particular, it enable the copartnery to sue for company claims, and to use diligence for company debts; it makes the company liable to be sued, and to be subject to diligence, for claims against or debts of the company. Your committee think that these and other objects which are attained by this doctrine of the law of Scotland are useful, and that any change upon it would be detrimental.—FAC. ADV.

This Committee are of opinion that the rule of the law of Scotland, by which companies have a separate standing in law, is highly beneficial in a number of ways, and should not be altered.—WR. SIG.

A private partnership is, in Scotland, a *separate* person in law, in all the relations of debtor and creditor arising within the sphere of its business. Its partners are *praepositi negotiis societatis*, and their acts in that character bind the copartnery. Each partner stands in the position of a cautioner for the whole debts of the copartnery, with a right of relief against each of his copartners *pro ratâ*.—SOC. SOL.

Generally, the rules of the laws of both countries strike us as more or less highly artificial, not depending much upon abstract principle. Upon the whole, however, we think the Scottish system, with some modifications, the simpler; and that, although the Scottish rule of a company being a separate party in law from any or all of its partners is an apparent complexity, yet in practice it has been found to work well, and to possess many advantages over that of England, and avoids such anomalies as occur there, as specified in Nos. 73, 74, 75, and 76, and supersedes the necessity for the tedious and expensive remedies *in Equity* in the courts there.

These general remarks supersede any special remarks on this and the four following sections, with regard to which we prefer the Scottish rule. The practical effect of the Scottish rule of a company being a separate party from the partners (No 75,) will be specially adverted to with reference to the claims of the creditors of the company and partners in bankruptcy; No. 82.—FAC. PROC.

The rule of Scotch law seems preferable.—CONV. ROYAL BURGHS.

I prefer the Scotch rule, which I think admirable.—M. D. HILL.

The law in Scotland, which seems to clothe private partnerships with one of the characteristics of a corporation, works well in Scotland and is approved of there.—A. BLAIR.

A partnership is a moral person distinct in its interests from those of its partners.—L. LEVI.

We prefer the law of S. The necessity of suing each partner by name has been found productive of great delays and injustice.—DUBLIN CH. COMM.

PRIVATE PARTNERSHIPS.

Their nature.

Assimilate to Scotland.—LEITH CH. COMM.
Scotch preferred.—BERWICK WATCH COMM.
S. adopted.—LAW OF D. & C. COMM.
S. right.—MANCHESTER CH. COMM.
The Scotch law preferable.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
73. A private partnership cannot sue or be sued by any of its members, except in a court of equity.	A private partnership can sue and be sued by any of its members.

PRIVATE PARTNERSHIPS.

Suing or being sued by any of its members.

The rule of the law of Scotland here mentioned is the result of the maxim stated in the preceding article. The copartnery being recognised in law as a separate *person*, or *quasi* corporate body, can enter into contracts with any of the individual partners as well as with strangers, and your committee think it very advantageous for the facilities of commerce that it should be enabled to do so. A wealthy partner may advance his money or lend his credit to a company of which he is a member, or *vice versâ*, and there is no reason why the same remedies should not be allowed to the parties in such circumstances as in contracts between strangers.—FAC. ADV.

This is a natural sequence from the principle of the law of Scotland, and must of course follow that rule.—WR. SIG.

We understand this is not the law of Scotland. *Any* member of a partnership cannot sue for a partnership debt. Nor can any member or members of a partnership be sued for a partnership debt, unless the copartnery be dissolved, or the debt constituted against the company.

If a judgment has been obtained against a *company*, execution may pass thereon against the individual members, although they may not have been specially called to the process.—SOC. SOL.

See No. 72.—FAC. PROC.

The rule of Scotch law seems preferable.—CONV. ROYAL BURGHS.

I prefer the Scotch rule, which I think admirable.—M. D. HILL.

The Court of Session is a court of equity as well as of law.—A. BLAIR.

The rules of the Scotch law as regards partnership are in conformity with mercantile practice. It is all-important to remove the hindrances, which are now experienced by partnerships, of suing and being sued by any of its members.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The Scotch law right,—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

The Scotch law preferable.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
74. Two private partnerships, having one or more member or members in common, cannot sue each other, except in a court of equity.	Two private partnerships having one or more members in common may sue each other.

PRIVATE PARTNERSHIPS.

Having a member in common—suits between.

If two private copartneries are truly and substantially distinct from each other (v. 2 Bell Com., 625), although they may have one or more members in common, there is no reason why they should not deal with each other as separate persons, and your committee think that is would be inexpedient to change the law of Scotland in this respect.—FAC. ADV.

This Committee are of opinion that it would not be expedient to change this rule, which appears reasonable and equitable.—WR. SIG.

The circumstance of one or more persons being members in common of two trading companies, does not seem to be any good reason for denying to *both* all legal remedy against each other. But the Court of Session holds an equity as well as a common law jurisdiction.—SOC. SOL

See No. 72.—FAC. PROC.

The rule of Scotch law seems preferable.—CONV. ROYAL BURGHS.

I prefer the Scotch rule, which I think admirable.—M. D. HILL.

The same principle applies as in No. 73.—A. BLAIR.

This third rule is another inconvenience proceeding from the first, viz., the non-recognition of the distinction of interests between the firm and the partners.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

S. right.—MANCHESTER CH. COMM.

The Scotch law preferable.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.	PRIVATE PARTNERSHIPS.
A joint adjudication in bankruptcy against co-partners vests in the assignees, and renders subject to distribution under it, not only the joint property of the partnership, but also the separate property of the individual partners, subject, however, as to the latter, to the satisfaction in full of their separate debts.	A company may be sequestrated without the individual partners being sequestrated.	*Becoming bankrupt—effect on separate estates of partners.*

Falls perhaps properly under the laws of bankruptcy, and therefore may be considered as excluded from the remit made to your committee by the terms of the application of the Law Commission to the Faculty. It appears, however, to your committee that the rule of the law of Scotland here stated is a necessary consequence of the rule mentioned above in the 1st article of this head.—FAC. ADV.

This is another sequence from the rule stated in No. 72. It, however, applies to bankruptcy; and it was understood that the present inquiries are not to touch on that subject.—WR. SIG.

This rule in Scotland stands on statute and common law (2 & 3 Vict. c. 41.)—SOC. SOL.

These rules, 72, 73, 74, and 75, in the law of Scotland should not be altered. They are based upon clear principles, which solve almost every variety of question which occurs touching accounts between a copartnery and its members, between members themselves, and between members and the creditors of the copartnery.—SOC. SOL.

See No. 72.—FAC. PROC.

The rule of Scotch law seems preferable.—CONV. ROYAL BURGHS.

I prefer the Scotch rule, which I think admirable.—M. D. HILL.

If the property of individual partners can be made available to the creditors of the partnership without the legal process, there does not seem any reason why the process should necessarily be extended to the private estates. The economical and equitable distribution of the estates joint and particular is the object to be attained.—A. BLAIR.

The separate property of the individual partners is totally independent of the partnership property. Where the partnership commits bankruptcy the joint stock only should vest in the assignees. The individual partners should be called on to make up the
—L. LEVI.

We prefer the law of E. and I. It is obviously equitable.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

E. and I. preferred.—MANCHESTER CH. COMM.

The English law is right, so long as unlimited liability exists.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.	PRIVATE PARTNERSHIPS.
76. In an action at common law by or against a private partnership, all the partners must be individually named and served with process, if the defendant insists. This, however, he must do in such a time and with such formalities as render it impossible when the partners are numerous.	In suits by or against private partnerships, If the name of the company comprise the names of persons only, the company itself may sue or be sued by that name, and no member need be named or served;	*Parties to be named in suits.*

(76 and 77.) This Committee approve of the rule of the law of Scotland, which should not be changed.—WR. SIG.

The rule according to which a copartnery using a personal firm *by which it signs obligations* can sue or be sued, without naming or serving the summons on any of the individual partners, affords important facilities in all judicial actions in which such a copartnery is engaged, and your committee think that such facilities are advantageous, and ought not to be withdrawn. Neither are they aware of any practical inconvenience having arisen from the extension of this rule (not adverted to in the communication from the Law Commission), by which, on a decree being obtained against a copartnery, under its firm or the company name, personal diligence may be raised against the individual partners, although not named in the decree, it being at the hazard of the user of the diligence that the messenger employed by him directs it against the proper party.—SOC. SOL.

In these particulars, we humbly think the law of Scotland is anomalous and imperfect The distinction between a *social* firm and a *descriptive* firm has long been observed; but we do not think there is any real distinction sufficient to affect the *persona standi in judicio*, conferring it upon the former and denying it to the latter. The social firm is often more elusory than the descriptive firm, setting forth names which do not represent or indicate the membership of the company. *Any* surname with "and company," or *any* combination of any surnames, will do to sustain the *persona standi*.

A degree of registration, or a judgment issued against a company trading under a pseudo-social firm may be put into execution against the real partners, though not named

PRIVATE PARTNERSHIPS.

Parties to be named in suits.

in the decree or judgment, and the creditor is exposed to similar inconveniences and risks in discovering them, as if he held a decree against a descriptive firm.

We think this state of the law should be altered, and every trading firm, social or descriptive, should have a *persona standi in judicio*, leaving the creditors of such firms to discover and deal with the individual members as at present.

Joint-stock banking companies, unincorporated, are authorized to sue and be sued by a registered officer (7 Geo. IV. c. 67.)—SOC. SOL.

The mode of calling a company into court seems to us more simple in Scotland than in England, and it is one of the advantages of giving the company a separate *persona standi*. The practice in England, we understand, leads to many inconveniences.—FAC. PROC.

The rule of Scotch law seems preferable.—CONV. ROYAL BURGHS.

I prefer the Scotch rule, which I think admirable.—M. D. HILL.

The law in Scotland seems unexceptionable, as the partnership is sued by the name they have chosen, and under which they have traded and contracted debt, whereas the technicality of the English law seems to amount to a denial of justice to the creditor.—A. BLAIR.

The inconvenience of this rule is too well known. A company composed of a large number of partners, but not formed under the Joint Stock Companies Act, is under the dilemma of being unable to enforce any claim owing to the impossibility of joining every member in the suit.—L. LEVI.

We think the name of the firm only need be used; and a service on one of the firm should be sufficient.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

S. preferred.—MANCHESTER CH COMM.

(76. and 77.) The Scotch law decidedly the most convenient in mercantile affairs.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
77. In suits in equity by or against *ordinary* partnerships, every member must be named, and (if a defendant) must be served with process, unless where the number of partners is so great as to render this impracticable, in which case a few may sue or be sued as representing the general body of partners.	But if the company be anonymous, *i.e.*, have no denomination but what is descriptive of its object, the names of three, at least, of the members must be used along with the descriptive name of the company.

PRIVATE PARTNERSHIPS.

Parties to be named in suits.

Your committee think that the law of Scotland in this respect is decidedly preferable.—FAC. ADV.

See No. 77.—WR. SIG.

See No. 76.—SOC. SOL.

See No. 76.—FAC. PROC.

The rule of Scotch law seems preferable.—CONV. ROYAL BURGHS.

I prefer the Scotch rule, which I think admirable.—M. D. HILL.

The spirit of the law (in equity) seems the same in both countries.—A. BLAIR.

The difference between the modes of suing or being sued at law or equity should be removed. When the company is anonymous, the manager and two directors should be the parties to sue and be sued, along with the descriptive name of the company.—L. LEVI.

We think the same regulation, as recommended in No. 76, should apply to suits in equity.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

S. preferred.—MANCHESTER CH. COMM.

See No. 76.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
78. Pending an action or suit by co-partners, one or more of them may gratuitously release the defendant from the whole cause of the action or suit. And a defence valid as against one of the co-partners is available as against all of of them in an action by the co-partners.	Pending a suit by a company, one of the partners cannot release the defendant. And a defence, although it would be valid against one of the partners, would not be available against the company and the other partners

PRIVATE PARTNERSHIPS.

Powers of partners.

The statements of the law of Scotland in these articles appear to your committee to be correct; and they see no cause to recommend that any alteration should be made on it.—FAC. ADV.

PRIVATE PARTNERSHIPS.

Powers of partners.

(78 and 79.) This Committee approve of the law of Scotland, as here laid down, and would strongly recommend it should not be altered.—WR. SIG.

By the law of Scotland a partner cannot gratuitously release a defender in a process at the instance of the company, but it does not seem to be necessary that *every* partner of a company should sign a discharge granted for a good consideration, though the claim be the subject of a process.

The second part of this statement of the Scotch law is ambiguous. The act of the partner upon which the defence is supposed to be rested, would be beyond the partner's institorial power, and therefore not the act of the company.

We see no reason for making a change in the law of Scotland in these particulars.—SOC. SOL.

We think the Scottish rule decidedly preferable. It is derived also to a certain extent from the rule of a company being a separate party from the partners, but the rule seems equitable independent of this origin.—FAC. PROC.

The rule of Scotch law seems preferable.—CONV. ROYAL BURGHS.

I prefer the Scotch rule.—M. D. HILL.

From the spirit of the law of partnership in the two countries, it would appear to me that in England a private partnership is considered in the eye of the law "a separate person," while in Scotland it is not so considered, in place of the contrary being the fact. I think that the rights of the partners should be preserved as they appear to be in Scotland. They are partners for trading purposes, but it does not seem necessary to merge their individual action when engaged in suits of law.—A. BLAIR.

The release of one partner is the release of the firm. Yet a defence may be valid against one of the partners, and not available against the company.—L. LEVI.

We prefer the law of E. and I. As regards the public, we consider that the act of one partner, in the discharge of the business of a firm, should bind the firm; and that any over exercise, or improper exercise of authority, should be a question between themselves. —DUBLIN CH. COMM.

The English law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

S. preferred.—MANCHESTER CH. COMM.

The Scotch law more consistent with right and convenience.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
79. In general a partner cannot bind his copartners by instrument under seal.	In general a partner may bind his copartners in any form in which he can bind himself.

PRIVATE PARTNERSHIPS.

How one partner may bind the others.

See No. 78.—FAC. ADV.

See No. 78.—WR. SIG.

This rule of the Scotch law should also be adhered to.—SOC. SOL.

The proposition of the Scottish law is here stated rather loosely. We understand that a partner could not bind a company to grant a conveyance or mortgage or other feudal rights, or to become cautioner, or generally for transactions out of the proper business of the company. If our understanding on these points is *not* correct, we would prefer the English rule, whereby we understand that a formal deed, signed by all the partners would be required to bind the company in a matter out of the ordinary course of business.—FAC. PROC.

In relation to the business of the company.—CONV. ROYAL BURGHS.

I think a partner having authority to bind the firm, should be able to execute that authority in any way by which he might bind himself; but I also think that authority is too lightly inferred in our law, and that where a firm is sued upon a contract entered into by one or a minority of the partners only, it should always be a question of fact for the jury, whether or not the plaintiff had used due caution in entering into such a contract, supposing it to have been proved on the part of the firm that the contracting partner had exceeded his authority.—M. D. HILL.

It seems reasonable that the specialty in this case should apply to instruments not used for the purposes of trade.—A. BLAIR.

A partner may bind his copartners in any form in which he can bind himself.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The English law right.—LEEDS CH. COMM.

Assimilate to England and Ireland—LEITH CH. COMM.

Scotch preferred, dealing only with partnership property.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

S. preferred.—MANCHESTER CH. COMM.

The English law safest.—E. HEATH, LIVERPOOL CH. COMM.

PRIVATE PARTNERSHIPS.

Set off.

ENGLAND AND IRELAND.

80. In a proceeding against co-partners as such, or against one or more of the co-partners individually, a debt due from the plaintiff to one or more of the co-partners in the former case, or to all the co-partners as such in the latter case, cannot be set off against the claim of the plaintiff.

SCOTLAND.

In a proceeding against a company, or against one or more of the co-partners, a debt due from the pursuer to one or more of the co-partners in the former case, or to the company in the latter case, may be set off against the claim of the pursuer.

2 Bell's Comm., 664.

The law of Scotland, as fixed by the decisions referred to by Mr. Bell, 2d Comm., p. 666, is correctly stated in this article; but your committee, referring to the views stated by that author, think it a matter of great doubt whether compensation should be allowed to be pleaded by a company upon a debt due to one of the partners against a demand made against the company. They can see no objection to allowing one of the partners sued for a company debt to plead compensation upon a private debt due by the pursuer to himself.—FAC. ADV.

This Committee approve of the law of Scotland. They are aware that there is a difference of opinion as to this in some of the legal bodies connected with Scotland; but this Committee have never seen any inconvenience arise from it.—WR. SIG.

We understand the law of Scotland to be the same in its general principle with that here stated to be the law of England. What is stated as the law of Scotland is an *extension* of the application of the general rule to a class of cases in which injustice might be done if compensation were not allowed. The late Professor Bell, in his Commentaries, (vol. ii, p. 664 to p. 669) expresses a dissent from this application of the general rule, if *bankruptcy intervened;* but in his more recent work (Principles, 4th edition, 1839, sec. 573) he states the law, "that where the company debt is demanded from a partner, or where the company is bankrupt, or dissolved, the partner may set off the debt due to him against the company debt;" and he refers to the cases in the Court of Session, which called forth his first opinion.

It appears also, from the English authorities, cited by Professor Bell in both his works, that judgments have been pronounced in England upon the same view of the law.—SOC. SOL.

There is more of justice and equity in the Scottish rule. If A is a creditor of D to the full extent of D's demand against A and B, why should the latter be compelled to pay D and leave A to pursue for his debt? There is a clear distinction between the points referred to, No. 78, and a case of set off.—FAC. PROC.

The Scottish rule is the more equitable.—CONV. ROYAL BURGHS.

The English rule appears more consistent with strict right, while the Scotch rule may have some tendency to diminish protracted litigation. In ignorance of the working of the Scotch rule, I am inclined to prefer the English.—M. D. HILL.

The English law is to be preferred.—A. BLAIR.

It seems but just that where a debt is due by a person who sues a company, or one or more of the copartners individually, they should set off such a debt against the claim of the person suing.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

I like the Scotch law best in principle, always supposing that the debt proposed to be set off is an undisputed one; but I except the case where a debt owing by the pursuer to one co-partner individually is attempted to be set off against a claim made by him on another co-partner individually.—E. HEATH, LIVERPOOL CH. COMM.

PRIVATE PARTNERSHIPS.

Failure—Distribution in case of insolvency.

ENGLAND AND IRELAND.

81. A partnership which is not subject to the bankrupt law, and is not within the Winding-up Acts, cannot have, or be compelled to have, all its property distributed by process of law for the rateable benefit of all its creditors.

SCOTLAND.

A company, although it should not be sequestrated, may become notour bankrupt, whereby all creditors, using diligence against it within a definite period, are enabled to rank *pari passu.*

Your committee are of opinion that the rule of the law of Scotland, by which all creditors of a company which has become notour bankrupt using diligence against it within a definite period are enabled to rank *pari passu,* is both equitable and advantageous to commerce; and that the law of England should be assimilated to that of Scotland in this respect.—FAC. ADV.

This Committee decidedly approve of the rule of the law of Scotland, which appears to them to be equitable.—WR. SIG.

This rule in the law of Scotland is a part of the Statutory Bankrupt Law. We think it would be attended with advantage to introduce a similar rule in England.—SOC. SOL.

It being always desirable to facilitate equalization among the creditors, and distribution of the assets of an insolvent company, we see no reason why a company should be

PRIVATE PARTNERSHIPS.

Failure—Distribution in case of insolvency.

exempted from any process tending to these results, and the principle which has been found in practice so valuable in equalizing diligence on notour bankruptcy in case of individuals (see No. 71), ought, we think, to apply to companies.—FAC. PROC.

This is regulated by the Bankruptcy Law, and the Scottish rule seems preferable.—CONV. ROYAL BURGHS.

I think a partnership ought always to be subject to the bankruptcy law; indeed I am of opinion that the rule which confines bankruptcy to traders is one which will not bear strict investigation.—M. D. HILL.

The Scottish law is to be preferred.—A. BLAIR.

It is desirable to put all companies for commercial purposes under the same law, giving a right to the creditors to have the property of the bankrupt distributed rateably among them.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The Scotch law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

Scotch preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

I prefer the Scotch law.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
82. Upon the bankruptcy of co-partners, their separate estates are applicable to the payment of their respective separate debts in priority to partnership debts.	Upon the sequestration of co-partners, their separate estates are applicable to the payment, *pari passu*, of their respective separate debts, and of so much of the partnership debts as the partnership estate is insufficient to satisfy. The creditor in a company debt, in claiming upon the sequestrated estate of a bankrupt partner, must deduct from the amount of his claim the value of his right to draw payment from the company's funds, and he is ranked as a creditor only for the balance.

PRIVATE PARTNERSHIPS.

Application of separate estates of insolvent copartners.

This article belongs properly to the law of bankruptcy and sequestration; but your committee think the law of Scotland, as stated in it, is reasonable and expedient, and that it ought to remain unchanged.—FAC. ADV.

This refers to bankruptcy, and does not therefore fall within the scope of the present investigation; but this Committee decidedly approve of the English law.—WR. SIG.

We think the English rule is more equitable, and should be introduced into Scotland In practice, we have frequently observed the great hardship of the Scotch rule.—SOC. SOL.

This is one of the instances of diversity between the laws of the two countries in which it is most important that assimilation should take place, and it is one of the points in which we think the English rule should be adopted, as it is far more equitable that the separate estates of the company and its partners should first meet their separate obligations, than that the private estates of the partners should have an augmented ranking from the claims against the company, in competition or along with those of the partners' private creditors.

As one of the instances of what appears to us to be unfairness in the Scottish rule on this point, (but which is, perhaps, capable of a simple practical remedy,) we may mention the case of a company creditor having a security over or right of retention of the property of an individual partner, which he is entitled to hold in security of a debt due by the company estate, but is not bound to value or deduct from his claim, as in consequence of the company being a separate person in law, the property held in security is not a *part of the bankrupt company's assets*, and the value therefore falls to be deducted only from the ranking on the estate of the partner to whom the property belongs.—FAC. PROC.

The English rule seems preferable.—CONV. ROYAL BURGHS.

Probably the practical distinction between the English and Scotch rule may not be very important. I think the English rule has the advantage of simplicity in action.—M. D. HILL.

The Scottish law seems the most equitable and to give the best defence against fraud.—A. BLAIR.

Holding the distinction between the joint estates and the separate estate of the copartners; upon the bankruptcy of copartners their separate estates should first meet their separate debts, and the excess should be applied to the payment of what the partnership estate is insufficient to satisfy.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The English law right.—LEEDS CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

The English law most convenient and simple, as well as most equitable.—E. HEATH. LIVERPOOL CH. COMM.

PRIVATE PARTNERSHIPS.

Dissolution—Insolvency of a partner.

ENGLAND AND IRELAND.

83. A partner, taking the benefit of the Insolvent Acts is, as well as his being adjudged bankrupt, a ground of dissolution of the partnership.

SCOTLAND.

Notour bankruptcy without sequestration is not a ground of dissolution of the partnership.

Although notour bankruptcy does not, *ipso facto*, dissolve a partnership, your committee are not prepared to assent to the proposition that it would not be a good ground to entitle a solvent partner to insist on a dissolution during the currency of a contract of copartnery for a given time; and they do not think that any alteration of the law is called for in this particular.—FAC. ADV.

This Committee approve of the rule of the law of Scotland, which they understand would allow a solvent partner to dissolve the copartnery in the event of his copartners becoming notour bankrupt, although the copartnery is not thereby *ipso facto* dissolved.—WR. SIG.

This is not in all respects a correct statement of the law of Scotland. Notour bankruptcy established by imprisonment, or an execution of search, may not *per se* be a good good ground of dissolution; but notour bankruptcy, in terms of the statute, by arrestment, unloosed for fifteen days, in the hands of the company against the partner, would be a good ground for declaring a dissolution.

Taking the benefit of the *cessio*, or granting a disposition *omnium bonorum* under the act of grace, would operate a dissolution.

The laws of the two countries thus seem to be the same.—SOC. SOL.

We decidedly prefer the English rule, and think that notour bankruptcy should dissolve partnerships, at least give an option to the solvent partner to dissolve. In practice we have seen much inconvenience result from the difficulty of dissolving co-partnerships otherwise than by consent.—FAC. PROC.

It may be doubted if this is a correct statement of the law of Scotland *in every such case*.—CONV. ROYAL BURGHS.

Any proceeding which clearly shows a partner to be insolvent ought I think to be a ground of dissolution.—M. D. HILL.

Notour bankruptcy in Scotland should dissolve partnership.—A. BLAIR.

Insolvency or bankruptcy will incapacitate the partner from exercising any control over the partnership affairs and property, and therefore will give a good ground of dissolution of the partnership.—L. LEVI.

We prefer the law of E. and I.—DUBLIN CH. COMM.

The English law right.—LEEDS CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

E. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

The English law should be preserved.—E. HEATH, LIVERPOOL CH. COMM.

PRIVATE PARTNERSHIPS.

Dissolution—Notice of retirement of dormant partner.

ENGLAND AND IRELAND.

84. A dormant partner, on retiring from the partnership, in order to avoid liability for the subsequent engagements of his co-partners, must give special notice of his retirement to those persons then having relations with the partnership who were aware of his connexion with it; but he need not give notice to any other persons either specially or by public advertisement.

Heath *v.* Sansom, 4. B. & Ad. 172.

SCOTLAND.

A dormant partner on retiring from the partnership in order to avoid liability for the subsequent engagements of his co-partners, must give special notice of his retirement to all persons then having relations with the partnership, whether they were or were not aware of his connexion with it, and also public notice by advertisement.

Hay *v.* Mair, 27th January 1809. Fac. Coll.

2 Bell's Comm. 643.

The precautions incumbent on a dormant partner who withdraws from a copartnery in order to protect himself from subsequent liabilities, have been viewed as the same as those which must be taken by ostensible partners. Your committee think it right to mention that the case of Hay *v.* Mair, though not set aside by any opposite decision, has been doubted, and has received no confirmation by recent judgment.—FAC. ADV.

This Committee approve of the rule of the law of Scotland. They understand that a dormant partner must take the same means to relieve himself from the engagements of a company as would be necessary on the part of an ostensible partner.—WR. SIG.

The rule of the Scotch law should not be altered.—SOC. SOL.

Although to a party not aware of a dormant partnership having existed it is of little consequence to be told that it has ceased, we think the Scottish rule and practice affords additional security to the public against fraud, and we have never known any inconvenience result from it.—FAC. PROC.

The rule of the Scottish law seems more just.—CONV. ROYAL BURGHS.

I think the English rule meets all the requirements of the case, while the Scotch rule goes beyond them.—M. D. HILL.

PRIVATE PARTNERSHIPS.

Dissolution—Notice of retirement of dormant partner.

I consider dormant partnership very objectionable, and I think the Scottish law should be extended to England. The principle of partnership is, that adventurers seeking profit should themselves bear the risk, not their creditors; and therefore all means should be afforded for ascertaining who receives the profits of any trading concern. In the case of an adventure deserving encouragement, but requiring capital and involving risk beyond the power of individuals, trading corporations with subscribed capitals and limited responsibility are necessarily established; and the extent and beneficial nature of the undertaking seems to be a fair guide to the propriety of granting such immunities in each particular case. Banks and insurance companies, perhaps, form an exception and demand special consideration. These undertakings do not necessarily want very large capitals for the conduct of their business, although a high degree of integrity, ability, and discretion is required for their management, which should avoid all unfair risk. The propriety, therefore, of giving charters to such institutions, and the terms and conditions of the charters, must depend very much on the state of the society in which their operations are to be made, and upon considerations connected with the scarcity and abundance of capital, and the conditions of the humbler classes.

As to the limited liability of partners in ordinary mercantile and trading concerns, I look with very great distrust upon the proposal of altering the present law of partnership.

That risk should in all cases accompany profit seems so perfectly reasonable, that I cannot understand how it can be impugned. In the case of a country deficient in capital and struggling with a high rate of interest, as was the condition of France in her provinces some years ago, a departure from the salutary rule of connecting profit and risk of loss together may be imagined, in order to concentrate capital and make it available for commercial purposes, although the same result is obtained by judicious banking operations. But in this country, where capital has for a very long period been rapidly accumulating, and where, upon the restoration of peace, we should again experience very low rates of interest and a great difficulty in finding investments not involving a speculative risk, it seems to me that by giving a legal sanction to limited responsibility in ordinary trading partnership, the evils of excessive capital will be very much enhanced—in fact, in that degree as to loss, which is the exponent of judicious or injudicious trading—as to morals in the greater scope given to deception and fraud, in the enormous and complicated trading operations of this country—and as to credit, in the suspicion and doubt which, by adding to the risk of making bargains and advances, must clog mercantile and banking transactions. An excess of capital in any society is not desirable, that is to say, a state of things in which that section of the population, not engaged in trades and professions, cannot obtain such a rate of interest for their money as enables them to support their position.

An alteration of the law of ordinary partnership would expose all this class to the temptation of seeking more for their money than it was worth in the market, and would lead to all the private and national risk of overtrading. Such persons would also be exposed to solicitations from relations and friends from which they are now free, and would in all respects increase the number of those, who having property, engage in the risks of business without any knowledge of affairs, a course of conduct which no legislator can approve, as either likely to improve character or preserve property. In an alteration of the law, such as that under contemplation, the arguments are generally freedom from restraint and the example of other countries. Now, freedom from statutable restraint may or may not be both desirable and wise, but there seems a moral connexion in this case, a sense of justice between advantage and risk, which should not lightly be dissolved. And as to the practice and law on the continent—no fair comparison can be instituted between the commerce and trade of this empire and that of any other state—not even of the United States of America, whose position as a new country, with an enormous territory, excludes them from the operation of any general rule applicable to the old societies of Europe.

The distribution and consequent administration of capital, are quite as important with reference to its effects on society, as its accumulation, and would be immediately affected by an alteration of the law of partnership.

It may be replied to much of what has been advanced, that under the repeal of the usury laws, it is open to any private partnership seeking capital to give such a rate of interest, permanent at least for a term of years, as will be equivalent to a participation in the profits of a trading concern. This cannot be denied, and, if the case be so, why alter the law of partnership? But the truth is that an actual share in a commercial undertaking appeals more strongly to the gambling propensities of human nature, and is therefore more likely to serve the purposes of those who wish to have the command of large means; and it is evident that the alteration of the law is, in all other respects, *apparently* favourable to the interest of those engaged in commercial pursuits, excepting, perhaps, that particular section who do not desire their prosperity, already at his height, to be abated by excessive competition.—A. BLAIR.

The doctrine of holding a dormant partner liable for the debts of the firm is in itself erroneous. There does not appear any necessity in the case of dormant partners to give notice of their retirement to the public, except to such as were acquainted of their having an interest in the firm.—L. LEVI.

PRIVATE PARTNERSHIPS.

Dissolution—Notice of retirement of dormant partner.

We prefer the Scotch Law. A dormant partner should be bound to deal openly with the world, and to announce publicly that he is no longer a member of the partnership.—DUBLIN CH. COMM.

The advertisement in the Gazette sufficient.—LEEDS CH. COMMERCE.

It would appear to be sufficient to give intimation to those persons then having relations with the firm who were aware of the connexion with it; but it would also be advisable to give public notice by advertisement.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

S. adopted.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

I think the Scotch law is the safest, both for the retiring partner and the public.—E. HEATH, LIVERPOOL CH. COMM.

ENGLAND AND IRELAND.	SCOTLAND.
JOINT STOCK COMPANIES. *Registration.* 85. All commercial joint-stock companies with transferable shares, and all partnerships consisting of more than twenty-five members, and all insurance companies formed since 1st November 1844, not under any special Act of Parliament or letters patent, (except mining partnerships on the cost-book principle, and anonymous partnerships in Ireland under 21 & 22 Geo. 3. c. 46. s. 2.,) must be registered, and must make periodical returns, pursuant to 7 & 8 Vict. c. 110. amended by 10 & 11 Vict. c. 78. 7 & 8 Vict. c. 110. ss. 63, 64.	By the common law, joint-stock companies with transferable shares are legal without the authority of the Legislature, or the Crown, or the Board of Trade, and without registration; with the exception of banking companies established since 9th August 1845, in virtue of 9 & 10 Vict. c. 75 (extending to Scotland the operation of 7 & 8 Vict. c. 113); and Scottish joint-stock companies having a place of business in any other part of the United Kingdom, 7 & 8 Vict. c. 110. s. 2.

It is correctly stated by the commissioners that in Scotland joint stock companies do not require the authority of the Legislature, the Crown, or the Board of Trade to their constitution. They are good at common law. Those established for banking purposes, however, are regulated by statute. And those having in contemplation undertakings, the execution of which involves an interference with rights of property, require, and ought to require, the sanction of Parliament.

The Act 1 Vict. cap. 73, which is applicable to Scotland as well as England and Ireland, was intended by means of letters patent to confer upon joint stock and other companies certain privileges, such as limited liability, power to sue and be sued in the name of the companies' officers. But this Act, in so far as regards Scotland, has been wholly inoperative. It is believed that no company in Scotland has obtained letters patent under it.

Joint stock companies in Scotland are thus left very much under the operation of common law. And, speaking generally, it may be said that the same principles and rules which are applicable to ordinary partnerships are applicable to them. The differences usually pointed out between the two kinds of companies are these:—1st. Joint stock companies are generally designated by a purely descriptive firm, while ordinary partnerships commonly use the name of one or more of the partners. 2d. While in ordinary partnerships the business is conducted by the parties, each partner being entitled to bind the company, joint stock companies are conducted only by managers or directors chosen by the association, and made known to the public by advertisement or otherwise. 3d. While in ordinary partnerships there is generally a *delectus personarum*, in joint stock companies there is no choice of shareholders, and the shares are transferable to strangers, and descendible to heirs and executors. The union of these three things usually characterizes and distinguishes joint stock companies. At the same time, none of them can be said to be peculiar to joint stock companies, for it is not uncommon for ordinary companies to have a descriptive firm, or to have transferable shares, or to be conducted by managers, although in the last case the acts of individual partners would be binding on the company.

It is only companies existing under merely descriptive firms that must sue and be sued in the manner noted by the commissioners at Art. 86. With regard to the liability of partners or shareholders for company debts, joint stock companies and ordinary partnerships are on the same footing. In both there is, at common law, an unlimited responsibility.—FAC. ADV.

(85, 86, 87, and 88.) The difference between the law of the two kingdoms relative to joint stock companies, appears now to arise principally from such companies being in England subject to certain special statutes, while in Scotland they are regulated by the common law. In so far as this Committee have had any experience in the working of these special statutes, they are of opinion that they ought not to be introduced into Scotland. All that appears beneficial in them seems already to be a part of our law; while there are other parts which they consider to be somewhat doubtful. There is certainly one of these statutes which has been made applicable to Scotland, viz., the Joint Stock Bank

Acts; but not one establishment existing before it has as yet taken advantage of its terms, and the only company that came under its provisions has been obliged to wind up. This Committee is satisfied that the Act in question has not worked beneficially for the country; and they are of opinion that the law of Scotland ought not to be altered, although they think greater facilities should be given to enable companies to apply for charters or letters-patent.—WR. SIG.

We think a system of registration of joint-stock companies should be introduced into Scotland; but whether the special provisions of the Act 7 and 8 Vict., c. 110, applicable to England, here contrasted with the common law of Scotland, should be adopted, we are unable at present to offer an opinion. Any measure of this kind which may be submitted to the country should be framed, as far as practicable, in accordance with the common law rules and forms of procedure.—SOC. SOL.

Having had little experience of the working of the statutory law of England, with which the law of Scotland as to joint stock companies is here contrasted, we do not feel competent to go into details in replying to the queries on this point, and our opinions are given with great diffidence. As a general principle we think that the freedom of trade requires that all associations for trading or for public purposes should be encouraged, and every facility given for their incorporation, with many privileges usually bestowed on corporate bodies, although not belonging at common law to voluntary association. The expense and uncertainty attending applications to Parliament renders it, in our opinion, expedient that a power of incorporating joint stock companies (under some well defined restriction and regulations), should be vested, by statute, in some more accessible and less costly tribunal. It would still, however, be proper that Parliamentary sanction should be obtained for any interference with rights of property, or privilege of an extraordinary character. We also highly approve of powers being conferred by general statutes for the benefit, on the one hand, and for the control on the other, of certain classes of joint stock companies, and of facilities being thereby given for the transfer of their stock, holding of their property, and the regulation of their business; and also for winding up after the purposes for which the company was formed shall have been accomplished, or when the company shall have turned out to be unprofitable, or a certain portion of its capital lost, or in the case of actual insolvency. In short that a General Act applicable to joint stock companies of the character of the Companies and Lands Clauses Acts should be passed.

We are not sufficiently conversant with the working of the Acts referred to as applicable to England, and therefore can give no opinion as to whether *their* extension to Scotland would be suitable. In any measure applicable to Scotland, we would suggest that the control of shareholders over directors should be much more extensive and stringent than has ever been effected under the clauses usual in the contracts of Scottish joint stock companies, as in practice we have known several important companies in which the business was persevered in by the directors for their own accommodation and aggrandizement, and by the officials for the sake of their salaries, long after it should have been closed, and this (even after the suspicions of the shareholders were roused and the wishes of numbers of them strongly expressed), partly by means of keeping the shareholders in ignorance of the true state of affairs, and partly by setting them at defiance. We think some mode should be devised to remedy this abuse, and suggest that in addition to the registration of the companies and their shareholders, and periodical returns, some power ought to be conferred on the shareholders of ascertaining the *actual* state of affairs.

We are aware of the extreme delicacy of interference in this respect, as, under certain circumstances, it might be most injurious, not only to the company, but to parties dealing with it, and as it might also give power to a party actuated by sinister motives or having a conflicting interest to gratify his malice, or forward his own views at the expense of the company; and, if such power existed, it might have the effect of materially affecting the establishment, and efficiency of joint stock companies for purposes both desirable and laudable. Notwithstanding such objections to increased control, the abuses have been so great and clamant as to require some change. Whether it would be expedient to restrict the right of interference to parties holding some large proportion of the stock, or to require the concurrence of a judicial officer, such as the Accountant General in the Court of Session, is a matter for consideration. We do not think that the "*prohibitions*" of the English statutes would be of much service, for no evils that we are aware of have ever resulted in Scotland from the establishment of joint stock companies which would have been prevented by these prohibitions. In the instances before referred to in which such companies have done mischief, it was occasioned by causes to which none of these prohibitions could have applied.

With regard to the winding up of joint stock companies, we have practically found that such winding up after insolvency or a resolution to abandon, has been impeded by the want of some simple power being held to be vested by law in the committee or party appointed to wind up, and we would suggest that the party winding up should, in addition to the powers of collection and distribution of the assets, be authorized to assess the partners, not merely for their exact proportions of any short-coming, but for an amount sufficient (after allowing for the inability of others) to make up the sum required to liquidate the debts of the Company. Although not familiar with the English winding-up system, we are impressed with the belief that the machinery is too ponderous and the procedure too

JOINT STOCK COMPANIES.

Registration.

judicial and expensive for Scotland, and is, in this respect, somewhat like the English Bankrupt Law.

These general remarks supersede special replies to the queries on Nos. 85 to 88 inclusive.—FAC. PROC.

There is certainly great room for legislation on the subject of joint stock companies; but we are not prepared to recommend that the provisions of the English statutes should be adopted.

Any law on the subject should be carefully framed and considered.—CONV. ROYAL BURGHS.

I am not sufficiently acquainted with the working of the Registration Acts to justify me in giving an opinion on the subject. Speaking theoretically, I have been inclined to think that the restrictions grew out of a temporary state of things, when speculation was exceedingly rife, and that the complication, delay, and cost of registration in certain cases might operate to prevent associations being formed which would be useful to the partners and to the public at large.—M. D. HILL.

The law of Scotland makes little difference between companies having a joint stock transferable on shares, and private partnerships not exceeding six members, or twenty-five members; and I am not aware of any reason which makes it desirable to extend the general law of England regulating ordinary trading joint stock companies to Scotland; and in the case put in No. 89, I presume that the party would be relieved by public advertisement.—A. BLAIR.

Owing to the anomalous state of the law of partnership in England and Ireland many statutes become necessary on joint stock companies, which would be useless were the present defects removed.—L. LEVI.

As to Joint Stock Companies, Nos. 85 to 92, we see no reason whatever to alter the laws now in force in E. and I. We consider them well calculated to protect public and private interests.—DUBLIN CH. COMM.

Assimilate to England and Ireland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

The Committee have not entered upon the consideration of the law relating to this subject, not having sufficient practical experience to enable them to give an opinion thereon.—LAW OF D. & C. COMM.

E. and I. right.—MANCHESTER CH. COMM.

	ENGLAND AND IRELAND.	SCOTLAND.
JOINT STOCK COMPANIES. *Incorporation.*	86. Upon complete registration, every such company becomes incorporated by the name of the company set forth in its deed of settlement, and for the purpose of carrying on the trade or business for which it was formed, but only according to the provisions of 7 & 8 Vict. c. 110. and 10 & 11 Vict. c. 78, and of its deed of settlement, and for the purpose of suing and being sued, and of taking and enjoying the property and effects of the company. s. 25.	Companies can be incorporated by special Act of Parliament, or by letters patent only. A joint stock company not incorporated cannot sue or be sued by its assumed name unless three or more of the partners be joined with the company itself in the suit.

See No. 85.—FAC. ADV.
See No. 85.—WR. SIG.
See No. 85.—SOC. SOL.
See No. 85.—FAC. PROC.
See No. 85.—CONV. ROYAL BURGHS.
See No. 84.—M. D. HILL.

As almost all the benefits conferred on companies by the Joint Stock Companies Act are enjoyed by common companies in Scotland—should the same rules be recognized in England, the benefit of incorporation would then be acquired only by letters patent of special Act of Parliament.—L. LEVI.

See No. 85.—DUBLIN CH. COMM.
Assimilate to England and Ireland.—LEITH CH. COMM.
English and Irish preferred.—BERWICK WATCH COMM.
See No. 85.—LAW OF D. & C. COMM.
E. and I. right.—MANCHESTER CH. COMM.

	ENGLAND AND IRELAND.	SCOTLAND.
JOINT STOCK COMPANIES. *Legality of Acts.*	87. Previous to *provisional* registration, there is a prohibition under a penalty against the taking any money for shares allotted or to be allotted, and the issuing in the name or on the behalf of the company, any writing to denote a right, or claim, or preference, or promise to any shares, and the advertising the existence or proposed formation of the company, and the making any	The several matters mentioned as being prohibited in England and Ireland by 7 & 8 Vict. c. 110. are not illegal in Scotland; companies established in Scotland, unless they have a place of business in some other part of the United Kingdom, being excepted from the operation of that statute. s. 2.

JOINT STOCK COMPANIES.

Legality of Acts.

contract for or on behalf of the intended company. s. 24.

Previous to *complete* registration, there is a prohibition against making calls, except for the purpose of making deposits not exceeding 10*s.* in the 100*l.*, and against purchasing, contracting, or holding lands, and against entering into contracts for services, works or stores, except conditionally, or for matters required for the establishing of the company. s. 23.

There is a prohibition under a penalty against the disposal of shares by sale or mortgage previous to *complete* registration of the company, and registration of the owner as the shareholder. s. 26.

See No. 85.—FAC. ADV.
See No. 85.—WR. SIG.
See No. 85.—SOC. SOL.
See No. 85.—FAC. PROC.
See No. 85.—CONV. ROYAL BURGHS.
See No. 84.—M. D. HILL.
See No. 85.—DUBLIN CH. COMM.
Assimilate to England and Ireland.—LEITH CH. COMM.
English and Irish preferred.—BERWICK WATCH COMM.
See No. 85.—LAW OF D. & C. COMM.
E. and I. right.—MANCHESTER CH. COMM.

ENGLAND AND IRELAND.

JOINT STOCK COMPANIES.

Deed of Settlement.

88. Previous to *complete* registration, a deed of settlement must be executed by at least one-fourth in number of the persons who have then become subscribers, holding at least one-fourth of the maximum number of shares in the capital of the company.

Such deed of settlement must be formed in accordance with the provisions of 7 & 8 Vict. c. 110.

It must set forth the name, purpose, and place or places of business of the company, and the names of the then subscribers and directors; and must provide, amongst other things:

1. For the holding of meetings of the company and the proceedings thereat;
2. For the direction and execution of the affairs of the company and the recording of its proceedings;
3. For the amount of original capital and of proposed additional capital, if any, and its division into shares and the mode and time of payment;
4. The extent and mode of borrowing money and contracting debts;
5. The duration of the company and the mode or condition of its dissolution.

S. 7. and Schedule A.

A register of shareholders must be kept and be open to inspection; ss. 49, 50.

Certificates of shares under the common seal are primâ facie evidence of ownership; ss. 51, 52.

Transfers of shares are authorised and regulated; s. 54.

The recovery by the company of instalments on shares is prohibited; s. 55.

See No. 85.—WR. SIG.
See No. 85.—SOC. SOL.
See No. 85.—FAC. PROC.
See No. 85.—CONV. ROYAL BURGHS.
See No. 84.—M. D. HILL.

SCOTLAND.

Joint stock companies, the capital whereof is divided or agreed to be divided into shares, and so as to be transferable without the express consent of all the co-partners, and companies consisting of more than twenty-five membersy ma be formed without a deed of settlement, if they have not a place of business in any other part of the United Kingdom, as well as in Scotland.

JOINT STOCK COMPANIES.

Deed of Settlement.

Every deed of partnership may be deemed a deed of settlement.—L. LEVI.
See No. 85.—DUBLIN CH. COMM.
Assimilate to England and Ireland.—LEITH CH. COMM.
English and Irish preferred.—BERWICK WATCH COMM.
See No. 85.—LAW OF D. & C. COMM.
E. and I. right.—MANCHESTER CH. COMM.

JOINT STOCK COMPANIES.

Duration of liability of shareholders.

89. ENGLAND AND IRELAND.

A judgment, decree, or order against a company completely registered under 7 & 8 Vict. c. 110. has no effect against a former shareholder of the company after the expiration of three years next after he shall have ceased to be a shareholder; s. 66.

SCOTLAND.

Persons who were members of a joint-stock company with transferable shares at the time when a particular debt or engagement was contracted by the company, and were personally liable for such debt or engagement, continue liable to diligence in respect of that debt or engagement indefinitely, though they cease to be members by transfer of their shares.

Your committee approve of the restriction of liability introduced by the statutes 7 & 8 Vict. c. 110, and think that the same should be adopted in Scotland.—FAC. ADV.

Assuming that there is to be a system of registration, this Committee would approve of the restriction contained in the Act 7 & 8 Vict. 110, whereby a retiring partner should be relieved, after three years, from the engagements of the company incurred during the period he was a partner.—WR. SIG.

See No. 85.—SOC. SOL.

We think there is hardship in the Scottish rule, and have known instances in which it has occasioned much suffering. We think it should be modified in the manner adopted in England, with the addition of some notice by advertisement of a shareholder withdrawing, so that existing creditors of the company might either get their money, or might assent or be held as assenting to the transference of their claims solely against the remaining and new members.—FAC. PROC.

See No. 85.—CONV. ROYAL BURGHS.
See No. 84.—M. D. HILL
See No. 85.—A. BLAIR.

The responsibility for the space of three years of those who were members of a joint-stock company for the debts contracted during the time they were interested in the company is sufficient, considering the continuous change of ownership in shares, and the shortness of the obligations generally contracted.—L. LEVI.

See No. 85.—DUBLIN CH. COMM.
Assimilate to England and Ireland.—LEITH CH. COMM.
English and Irish preferred.—BERWICK WATCH COMM.
See No. 85.—LAW OF D. & C. COMM.
E. and I. right.—MANCHESTER CH. COMM.

JOINT STOCK COMPANIES.

Mode of transfer of shares.

90. ENGLAND AND IRELAND.

Shares in joint-stock companies transferable without the concurrence of the other co-partners can be transferred by deed under seal only.

7 & 8 Vict. c. 110. s. 54.

SCOTLAND.

Shares in unincorporated joint-stock companies transferable without the concurrence of the other co-partners may be transferred without a deed under seal, if not otherwise prescribed by the contract of co-partnery.

The practice of authenticating deeds by seal is unknown in Scotland except in the case of corporations; and it seems unnecessary to extend it, as the law has provided other modes, better and more convenient, for the authentication of writings.—FAC. ADV.

(90 and 91.) In Scotland deeds are not authenticated by seal except in the case of corporations; and it seems unnecessary to introduce such a formality. They would be inclined to recommend that it should be done away with entirely, as the mode of authentication of deeds is now so much more conveniently and better provided for.—WR. SIG.

See No. 85.—SOC. SOL.

As before remarked, we do not perceive any advantage in having different classes of deeds; and if the writing or transference is probative, we think the Scottish rule fair and reasonable. Seals having been found in Scotland of no value have been dispensed with for several centuries.—FAC. PROC.

The practice of *sealing* deeds, as now practised in England, is really such a farce, and the reasons which originally led to it have so long ceased to exist, that we cannot believe, *notwithstanding the frequent reference made to it in these Notes*, that any one can for a moment contemplate its re-introduction at this time of day into Scotland, where it was abandoned centuries ago.—CONV. ROYAL BURGHS.

The restriction of the transfer of shares by deed under seal only is useless where it is provided that the transfer be duly registered in the books of the Company.—L. LEVI.

See No. 85.—DUBLIN CH. COMM.
Assimilate to Scotland.—LEITH CH. COMM.
English and Irish preferred.—BERWICK WATCH COMM.

JOINT STOCK COMPANIES.

Companies Clauses Consolidation Act.

See No. 85.—LAW OF D. & C. COMM.
E. and I. right.—MANCHESTER CH. COMM.

91. Sec. 14. Shares are transferable by deed under seal only.

Sec. 14. Shares are transferable by deed with or without seal.

See No. 90.—FAC. ADV.
See No. 90.—WR. SIG.
Seals, as a mode of authenticating deeds and contracts, have been unknown in Scotland for nearly three centuries, and ought not be restored.—SOC. SOL.
The same remark as in answer No. 90, applies as to the formality of deeds.—FAC. PROC.
See No. 90.—L. LEVI.
See No. 85.—DUBLIN CH. COMM.
Assimilate to Scotland.—LEITH CH. COMM.
English and Irish preferred.—BERWICK WATCH COMM.
See No. 85.—LAW OF D. & C. COMM.
E. and I. right.—MANCHESTER CH. COMM.

ENGLAND AND IRELAND.

JOINT STOCK COMPANIES.

Winding up

92. Every partnership, association and company, whereof the partners or associates are not less than seven in number, and whether incorporated or unincorporated, may be compulsorily wound up and dissolved without suit, by *summary proceedings in Chancery*, if it shall have committed certain specified acts of bankruptcy, or in certain other specified events, or if any other matter or thing shall be shown which in the opinion of the court shall render it just and equitable that the company should be dissolved.

11 & 12 Vict. c. 45.
12 & 13 Vict. c. 108.

In certain cases companies may be compulsorily wound up *in Bankruptcy*, and the Crown may determine incorporated companies.

7 & 8 Vict. c. 111. (England).
8 & 9 Vict. c. 98. (Ireland).

SCOTLAND.

If a company be carrying on business in Scotland in certain occupations which would render an individual liable to sequestration, and one or more of the partners have been rendered notour bankrupt for a company debt, such company can be wound up by *sequestration*.

There are no winding-up Acts in operation in Scotland. But on the application of all or any of the partners, the Court of Session will appoint a judicial factor, with power to wind up the affairs of the company, and to sue in the name of the company.

Without committing themselves to the particular provisions contained in the English statutes, which regulate the constitution, registration, and winding up of joint stock companies, your committee prefer the general policy and principles of those statutes, as briefly stated by the commissioners, to the present state of the Scottish law on this subject. At the same time they cannot pronounce upon the efficiency or adequacy of the remedies and regulations contained in the English statutes, because they are unacquainted with the practical working of the system. They see no reason, however, to doubt that the objects proposed to be thereby attained are in themselves most desirable.

It appears to them that the public are not sufficiently protected against the rash, delusive, and unprofitable speculations of joint stock projectors in Scotland; that joint stock companies are not under sufficient control; that neither the shareholders nor the public have sufficient means afforded them of becoming acquainted with the true state of the company's affairs; and that there is no adequate provision for winding up their affairs, in the event of such a step becoming expedient. In point of fact, the subscription contracts of some joint stock companies have been so framed as purposely to keep the shareholders and the public in the dark, and the winding up of the affairs of such companies at the particular crisis prescribed in the contract has been thereby defeated, to the great loss of the shareholders. Reference may be made on this subject to the cases Allan *v.* Wright and others, 7th June 1853, 15 D. p. 725; and Collins *v.* North British Bank, 18th December 1850, 13 D. p. 349.—FAC. ADV.

This Committee, so far as they have had any opportunity of seeing the effect of the Winding-up Acts in England, are of opinion that they ought not to be extended to Scotland, although they would have no objection to an enactment which might enable such companies to be wound up under a process of sequestration, and to have the individual partners assessed for the deficit in the company's estate to meet its debts, without its being necessary to sequestrate the estates of the partners.—WR. SIG.

The rules of the law of Scotland ought not to be changed. So far as they afford a remedy for winding up, they permit of easy application, and occasion little expense. But they are defective in so far as a trustee on the sequestered estate of a company, or a judicial factor appointed to wind up a company, cannot allocate the deficiency of the company's liabilities upon the individual partners, and enforce payment of their proportions. This might be remedied by giving the necessary power to a trustee in bankruptcy, and to a judicial factor, to be exercised under the cognisance of the Court, and according to such regulations as would give every partner an opportunity of being heard.—SOC. SOL.

JOINT STOCK COMPANIES.

Winding up.

Reference is made to the general remarks on joint stock companies, and, except with regard to them, and to railway and other companies, which do not fall within the sequestration statutes, we do not see any necessity for legislation on this subject, as the Scottish common law and bankrupt statutes have been found available for the purposes pointed at in the queries. It is highly desirable that some provision should be made for the case of railway and other companies not subject to sequestration, as the present power of the Court to appoint a judicial factor has not been found efficient.—FAC. PROC.

I cannot myself understand why the business of winding up should not be performed by the Courts of Bankruptcy.—M. D. HILL.

The winding-up Acts were introduced in England owing to the anomalous state of the law of partnership, which rendered all companies above a certain number unmanageable. No such difficulty has been experienced in Scotland, where a proper system exists throughout.—L. LEVI.

See No. 85.—DUBLIN CH. COMM.

Assimilate to Scotland.—LEITH CH. COMM.

English and Irish preferred.—BERWICK WATCH COMM.

See No. 85.—LAW OF D. & C. CH. COMM.

E. and I. right.—MANCHESTER

ENGLAND AND SCOTLAND.	IRELAND.
PARTNERSHIP. *Limited liability.* 93. Limited liability on the part of individual members for partnership engagements can be enjoyed only when it is expressly stipulated for in the particular engagement, or when it is conferred by special authority of Parliament or of the Crown, or of the Board of Trade.	Partnerships, one or more of the members of which (being non-acting) are to enjoy limited liability for partnership engagements, may be formed, without the direct sanction of Parliament or the Crown, or the Board of Trade, under the authority and subject to the regulation of the Anonymous Partnership Act, 21 & 22 Geo. 3. c. 46. (Irish).

Your committee are not prepared, and do not feel called on by the terms of the remit made to them by the Faculty, to consider in this report the wide question of the expediency of introducing into the law of both Scotland and England a limited liability of ordinary partnerships—a subject on which the Mercantile Law Commissioners have already reported their opinion.—FAC. ADV.

This Committee do not think it would be easy for them to enter into the general question of the expediency of limiting the liability of partners in joint stock companies. At the same time it may be proper for them to add, that from all the consideration they have been able to give to that subject, they are of opinion that the present law should be altered only to the effect of making the estate of the partners liable for the company's debts *subsidiarie* to their own debts.—WR. SIG.

We understand the common law of Scotland to be, that Parliament alone can limit the legal liability of individual partners. A limitation expressed in a contract binds the contracting parties.

As the Royal Commissioners have issued a Report upon the question of sanctioning public companies with a limited liability upon partners, we offer no opinion upon the difference here stated between the laws of England and Scotland on the one hand, and the law of Ireland on the other. The question is, besides, of too great importance to be of disposed summarily.—SOC. SOL.

As a Royal Commission has been appointed to consider this matter, we think it would be presumptuous to say more than that we are averse to the creation of partnerships with limited liability, as part of the general trading community, as we consider them dangerous equally to the fair trader and to the public.—FAC. PROC.

I entertain no fears as to the salutary operation of limited partnerships under a well framed Act. Unlimited liability deters all persons of prudence who cannot take an active part in the conduct of a company from entering into it; and, inasmuch as the body of members of a large company must necessarily place the management of the concern in a few hands, every such company in which the members are subjected to unlimited liability will eventually be composed of a class not likely to furnish it with the requisite stability to endure the vicissitudes of commerce. Having regard, therefore, to the interest of creditors as well as of debtors, I am in favour of a large infusion of the principle of limited liability into the commercial transactions of this country.—M. D. HILL.

The introduction of limited liability having formed the subject of special inquiry, it would be needless to refer to it here. With altered conditions than those required by the Irish Anonymous Partnership Act, limited liability in partnerships should be permitted throughout the United Kingdom. See Modifications suggested in my evidence in the Appendix to the Report of the Commissioners on Partnership with Limited Liability.—L. LEVI.

We refer the Commissioners to the communication which we have already transmitted, on the subject of limited liability of partnerships.—DUBLIN CH. COMM.

Assimilate to Ireland.—NOTE.—The Directors of the Chamber are of opinion, that, in the first instance, it might be expedient to adopt the recommendation of the Committee

appointed by the House of Commons in 1851, to the effect that power be given "to lend "money for periods of not less than twelve months, at a rate of interest varying with "the rate of profits in the business in which such money may be employed; the claim "for repayment of such loans being postponed to that of all other creditors; that in such "case the lender should not be liable beyond the sum advanced; and that proper and "adequate regulations be laid down to prevent fraud."—LEITH CH. COMM.

English and Scotch preferred.—BERWICK WATCH COMM.

E. and S. right.—MANCHESTER CH. COMM.

ADDITIONAL OBSERVATIONS.

Except in the points specially noticed in this report, your committee are not prepared to recommend that the differences between the laws of Scotland and England should be removed by assimilation, or to suggest the manner of doing so.—FAC. ADV.

In conclusion, we beg to state, with reference to the last division of the third head of inquiry, that it humbly appears to us the intended assimilation may be effected by two Bills,—one applicable to the changes which may be proposed in the law of England, and the other applicable to the changes to be made in the law of Scotland. Or, where deemed necessary, separate statutes might be passed with reference to the different subjects.—SOC. SOL.

In conclusion, we may remark generally, with reference to the inquiries on the first page of the notes by the Commissioners, that the increased and increasing intercourse between the several divisions of the United Kingdom, and the frequency of transactions being entered into and implemented in more than one of these divisions, renders an assimilation of the mercantile laws extremely desirable and almost indispensable. The uncertainty which necessarily exists where persons are not conversant with the laws of the part of the country by which the contract is to be construed, or implement is to be made, tends to prevent transactions being entered into; and the practical inconvenience and positive hardship which frequently arise from the operation of rules unknown to and not contemplated by one of the parties are frequently very great, and call for a remedy which humbly appears to us can only be found in assimilation. Many instances of inconvenience arising from the difference are suggested by the notes of the Commissioners, and in our special replies.

There is one point of difference not referred to in the queries, which we think of great consequence, viz., the mode in which deeds and writings ought to be executed in order to make them probative. We think one uniform system and mode of execution should be adapted and made applicable to all parts of the United Kingdom, its colonies and dominions; and as the sealing of deeds appears to be a mere form, and its abolition in Scotland has been found not to be attended with any practical inconvenience, we think that it should be dispensed with in England and Ireland. We also think that the classes of deeds recognized in England, some as having more and some fewer privileges, and more and less effect, should be abolished; and that, in so far as the formalities of execution are concerned, the distinction should be merely between deeds requiring to be formally executed, in accordance with the statutory or common law provisions, and writings in *re mercatoriâ* which ought not to require the same formalities. Some of the more simple deeds, such as powers of attornies, &c., common to the two kingdoms, might be simplified and and assimilated in style.

With reference to the third general head of inquiry as to the manner in which the alterations to be adopted should be made, we are disposed to think that the safest course would be by means of an Act or Acts of Parliament, applicable to all parts of the kingdom, embodying the rules to be acted on, as we are apprehensive that an enactment extending the law of one part of the kingdom to another part of it would lead to great inconvenience and confusion in the country to which the law was extended.—FAC. PROC.

I have read with great interest the able exposition of that portion of the commercial law of England, Scotland, and Ireland which the Commissioners have brought into comparison for the purpose of showing existing differences. In answer to the three questions proposed, I have to state—

1. That I am not sufficiently conversant with the laws of Scotland to supply any further points of difference, if any exist.

2. That my memory does not furnish me with particular instances of inconvenience arising from the differences in the commercial laws of the three countries, although I know that they are a source of trouble, anxiety, and loss to those whose pursuits in life expose them to the consequences of such conflict.

3. I am deeply impressed with the advantages of assimilation, and in marginal observations, which will be found in the ensuing pages, I have pointed out, in each particular instance in which I felt I was competent to form an opinion, that rule of law which I consider ought to be preferred, together with the grounds of such preference. In not a few instances it has appeared to me that the law of neither country offered the best rule for adoption, and in these cases I have submitted to the Commissioners my own views of what ought to be the law, taking it for granted that the opportunity, which assimilation presents for introducing improvements not to be found in the law of either country, will be turned to good account.—M. D. HILL.

An assimilation of the laws of the three kingdoms is very desirable, if it could be accomplished without sacrificing considerations of greater importance than the benefit sought.

The English common and statute law cannot perhaps be fairly compared with the law of Scotland, which takes into view both law and equity, and the improvement might be to join these two branches of jurisprudence in England.

In some respects the mercantile law in Scotland seems to be settled upon a more limited experience than the law of England, both as to the number of cases and the extent and importance of the questions at issue, and the practice of both countries seems occasionally depart from the principle on which the law sets out; but the anomalies may no doubt be explained.

A more important consideration arises from the different character of the three nations, which, taken along with settled habits and institutions, makes any sweeping or sudden alteration of the law extremely undesirable. A better illustration could not be given than the absolute failure of the attempt to ingraft the English trial by jury in civil cases on the law of Scotland, which has entirely failed from the difference between English and Scottish juries.

When the difference between the law of the three countries are clearly ascertained, and have been carefully considered, it would seem best to carry on any process of assimilation very gradually, and rather to wait until the necessity for a change be clear and apparent, than to forestall the results of experience by theory, however plausible and brilliant.—A. BLAIR.

I have the honour to transmit answers to the information requested by the Mercantile Law Commission. The valuable document they have issued is the most complete evidence of the anomalous state of the mercantile laws of the United Kingdom. That the three portions of the British Empire, closely united by every tie of friendship, commerce, and religion, and forming one integral state under the government of our gracious Queen, should possess laws so dissimilar in themselves and administered by different tribunals, is a state of things altogether inconsistent with the notion of a common nationality, and also productive of considerable inconvenience.

Having had opportunities of studying, comparing, and digesting the mercantile laws of Great Britain and Ireland, I have reason to believe that much injury is generally experienced through the ignorance which prevails as to the state of the law in either country, and more especially where the parties, after having incurred heavy expenses, were compelled to commence anew the whole action, owing to the fact of the debtor having changed domicile from one part of the kingdom to another during the process.

I trust the Royal Commissioners may extend their inquiries on the subject to the British Colonies, and that the result of their labours may tend to the promotion of one system of mercantile jurisprudence for the British Empire. It is of the utmost importance that all local and even national prejudices be altogether dismissed from the present inquiry; that every point be considered in its proper merit, irrespective of preconceived notions or of established custom; the great object in view being to take what is good out of either system, and introduce it into one common code.

Allow me to express a hope that the success of the labours of the Commission for the Assimilation of the Mercantile Law may encourage Her Majesty's Government to issue another Commission for the assimilation of the civil law with respect to the law of marriage and succession, tenure of land, &c., and that thereby the union and prosperity of the British Empire may be strengthened and extended.

In England contracts made on Sunday are void. 29 Charles II. c. 7, s. 1.	In Scotland they are valid. Bell's Principles, p. 44.
In England a Bank of Scotland note is no legal tender.	In Scotland a Bank of England note is no legal tender. The same would apply to Irish notes in England or Scotland.
In England no notes below 5*l.* are in circulation.	In Scotland and Ireland 1*l.* notes are current.
The maximum of the circulation in England is the average of the twelve weeks ending the 27th August, 1844.	The same in Scotland and Ireland is the average of the year ending 1st May, 1845.
The English banks cannot exceed their fixed limits.	The Scotch and Irish may, provided they hold gold and silver equal to such excess.
In England, where there is a junction of two joint-stock banks, the circulation of one is forfeited, and the united bank could issue only to the amount which the other bank had previously issued.	In Scotland and Ireland, the United Bank is allowed to issue the amount of the two circulations added together.
If any bank gives up its issue, and agree to issue Bank of Ireland notes, the Bank of Ireland may increase her authorized issue to the full amount of the issue of the bank whose notes are withdrawn.	In England the Bank of England can, in a similar case, issue only to the extent of the issue of the bank whose notes are withdrawn,
In England and Ireland, all the notes are legally demandable in gold at the branches where they have been issued.	In Scotland, they are payable only at the head office of the bank that issued them.

(*See* "Gilbart on Banking.")

The attention of the Commissioners is also directed to certain customs in the Isle of Man respecting banking.—L. LEVI.

The subject of interest on book debts is not referred to by the Committee, but as in Scotland interest accrues on accounts when due at all times, and in England only after special agreement or notice, the Committee desire to state that they prefer the practice in England in this respect to that of Scotland.—LAW OF D. & C. COMM.

1. (To 1st question prefixed to "Points of Difference.") The Board is not aware of any.

2. (To 2d question.) Frequent inconvenience and much loss arise from this cause. English merchants are for the most part profoundly ignorant of Irish or Scotch law, and it is chiefly when meeting with fraud or dishonesty that they become aware of the differences.

3. (To 3d question.) This Board would urge with all earnestness the earliest establishment of a mercantile code which should govern not only the ordinary transactions of commerce and trade over every portion of the United Kingdom, but the distribution of bankrupt estates. It would recommend that such code should comprise the most equitable provisions that can be found in the laws existing in any country on the globe.

As the comparison of the points of difference now submitted, is confined to the laws relatively in force in England and Scotland, the Board has succinctly pointed out in the margins of each, the principles to which, in framing a common code, it would give a preference, believing that the grounds for such preference will be easily recognized by the Royal Commissioners without detailed explanation.—MANCHESTER CH. COMM.

Under the head of *Set-off* a class of cases very frequent in shipping ports may be named for which some new provision seems required. A vessel discharges goods damaged or short, and sails immediately. Her agent, acting in the captain's name, can compel payment of freight, but the owner of the goods has no remedy until the return (if ever) of the identical captain, although the agent may be known to have funds belonging to the ship in his hands. So also in case of bills for stores procured, or for services rendered. It would be a great boon if these claims could follow assets belonging to the ship in her agent's hands, and the agent might be put on oath to declare if he held funds.—E. HEATH, LIVERPOOL CH. COMM.

GENERAL REPLIES

TO THE

QUESTIONS ON ASSIMILATION.

No. 1. The Right Hon. Maziere Brady, Lord Chancellor of Ireland.

Sir,—In reference to your letter in which, by direction of the Mercantile Law Commissioners, you ask my consideration of the printed statement, which accompanied it, of "Points of Difference in the Mercantile Laws," and inform me that the Commissioners request my replies to the questions in the first page of that statement; I have the honour to state in answer to the *first* of those questions, that my acquaintance with the laws of Scotland is too limited to enable me to suggest any points, if such exist, in which the Mercantile Laws of that part of the United Kingdom differ from those of England and Ireland, not mentioned in the subsequent pages of the statement.

As regards the *second* of the questions propounded by the Commissioners, I cannot at present recal to my recollection any particular instance of inconvenience as having occurred within my own experience arising from any of the specific differences exhibited in the printed statement; nor am I aware of any such inconvenience, otherwise than as the existence of differences of laws in constituent parts of the same empire must always be more or less productive of inconveniences and difficulties to those members of the community, whom business, the accidents of commerce, or other circumstances may practically involve in the consideration of them, either in the management of their affairs or the submission of their rights to the determination of the local tribunals. Such differences may be considered as partaking, in a greater or less degree, of the character of local customs, which should everywhere, within one common realm, give place, so far as may be practicable, to a general and uniform system of jurisprudence.

I am therefore of opinion, in answer to the *third* question of the Commissioners, that if it be practicable, all the differences pointed out in their printed statement, and such others, if any, as may be found to exist between the Mercantile Laws of Scotland and those of England and Ireland should be removed by assimilation.

The manner of effecting this must be, of course, by direct legislation on the several particulars in detail; but whether, in so doing, the principles of the Scotch law should be adopted in all, or any of those points of difference, or those of the laws prevailing in the rest of the United Kingdom should be preferred, are questions which will involve various considerations, and must, in some points at least, depend, I would say, more on the views entertained of the respective subjects by practical men of business engaged in the commerce of both countries, than on the opinions of legal practitioners, or judges, whose minds must of necessity be more or less imbued with a regard for the particular system of laws in the study of which they have been trained and in the application of which they have been judicially engaged. In considering the points of difference set forth in the statement of the Commissioners, I cannot say that I have been struck with any in respect to which I am strongly impressed with the opinion that the Scotch law should be preferred to that of England and Ireland. Perhaps the doctrine of the former in reference to the effect of a contract for sale on the ownership of goods, viz: that it does not change the property until delivery,—is more consonant with general principle as respects the effect of possession of personal chattels, than that of the laws of England. But I apprehend that difficulties would arise from the adoption of the Scotch law in this particular in consequence of our distinction between Courts of Law and Courts of Equity, and that many cases arising out of such contracts would, in that event, become necessarily subject to equitable jurisdiction which are now disposed of in our courts of law.

The Scotch law of warranty as stated in No. 9, appears to be calculated to do more complete justice than that of England under like circumstances; and, supposing the case of Flint *v.* Woodin, 9 Hare 618, to have established the position for which it is cited in No. 10, I would prefer, as partaking more of honesty and fair dealing that of the Scotch law in the particular point. It is, I think, almost a matter of course that the distinction should be abolished which declares that bills of exchange drawn in Scotland on a party in England or Ireland, or those drawn in England or Ireland on a party in Scotland, are foreign bills; all should alike be considered as inland bills. I think the Scotch law, which makes bills negotiable, although not expressed to be payable "to order" or "to bearer" is worthy of adoption, at least, unless negative words be inserted in the instrument to prevent its negotiability It may deserve consideration whether the distinction in the doctrines of our Courts of Equity between legal and equitable assets as respects payment of debts should not be abolished; but, whether that distinction shall

be retained or not, I think that the doctrines of the English law as to the degrees of debts, and the legal order of their payment, should not be further disturbed.

In regard to all the other points alluded to in the printed statement, I may say generally, that I incline to the opinion that the existing doctrines of the law of England should be adhered to, as, so far as I have been able to give consideration to them, no appreciable public advantage has occurred to me as likely to attend the substitution of the doctrines of the Scottish law on the same points. I therefore refrain from going further into detail.

I have to regret that an attack of illness at the close of my judicial sittings, which precluded my giving much attention to business for some weeks and obliged me to leave home, has delayed the reply to your letter.

The Commissioners are entirely at liberty to publish this communication as they shall think proper.

The Secretary,
&c. &c.

I have, &c.
MAZIERE BRADY.

No. 2. The Right Hon. THOMAS LEFROY, Lord Chief Justice of Ireland.

SIR,—I regret not having received your communication until I was engaged at my sittings after last term, which were followed so closely by circuit and afterwards by the Commission Court, that I have not had an opportunity of considering attentively the several specific differences referred to in detail, and must therefore confine myself to a reply to the three queries at the outset.

1. I cannot say that my recollection furnishes me at this moment with any points of difference in the mercantile laws of the three parts of the United Kingdom not noticed in your communication, exclusive of the laws of bankruptcy and sequestration.

2. Nor am I prepared to state any inconvenience of which I am aware arising from the existence of specific differences, if, as in the first query, the laws of bankruptcy and sequestration are to be excluded.

3. On the general question suggested by this query, my opinion is, that although the principle of assimilation has its value, the principle of not disturbing an established system of mercantile law is of still greater value. The inconvenience to mercantile men of accommodating their dealings to any material change in the established system is such as to render a change undesirable, unless to obviate some inconvenience felt by themselves; and on this head the opinion of mercantile men is of much more importance than that of lawyers. On this ground, therefore, I am not much disposed to recommend assimilation merely for the sake of assimilation. With respect to the particulars and manner in which differences should be removed by assimilation, I have to observe that several of the enumerated differences arise from a fundamental difference in the systems of jurisprudence in the different countries. I refer to all the cases where the difference arises from the systems of law and equity being separately administered; and unless the principle of assimilation is to be applied to the root of the matter in these cases, it would be vain to attempt to assimilate the matters of detail, which are only the necessary consequences of the fundamental difference of the systems of jurisprudence. There is, however, amongst the details of subjects proposed for consideration one upon which I should not fear to enter with more boldness and freedom than any other, as the experiment has been already tried to some extent in Ireland, and I am not aware of any ill effect or inconvenience in the result; but I must, at the same time, observe that the trial has not been very extensive—I mean as to the law of partnerships with a limited liability. The soundness of any material alterations on this head must depend upon the wisdom and sufficiency of the precautions to guard the public from its abuse. If in the course of these few observations anything has fallen from me worthy of further notice, I have no objection to the Commissioners making what use of it they may think fit.

The Secretary,
&c. &c.

I have, &c.,
THOMAS LEFROY, Chief Justice.

No. 3. The Hon. Mr. Baron GREENE, DUBLIN.

SIR,—I have the honour to forward to you the paper which you sent to me relative to the mercantile law, with the very few remarks and suggestions which have occurred to me upon reading it. The subject appears to me to have been so carefully considered, and the law so accurately digested by the Commissioners, that their minute is scarcely susceptible of addition or improvement. So far as relates to Ireland, it is, I think, very correct.

The Secretary,
&c. &c.

I have, &c.
RICHD. W. GREENE.

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24. The 10 Car. 1 sess. 2, c. 16 (s. 14, 15, 17), is repealed by 16 & 17 Vict. c. 113, and the period of limitation is now regulated by s. 20 of the latter Act.

36. See the observation at No. 24.

38. 6 Anne, c. 10, s. 17 is repealed by 16 & 17 Vict. c. 113. See sec. 22 of that Act.

40. This Act also is repealed as to Ireland by 16 & 17 Vict. c. 113. Vide s. 24 of that Act.

63. Query. Whether the law with respect to the right of an executor *de son tort* to retain should be adverted to?

65. Query. With reference to the law of Scotland ought notice to be taken of the effect of a judgment of assets *quando, &c.* in England or Ireland?

68. See 11 & 12 Vict. c. 48. s. 72, as to the effect of a release of lands in Ireland from a judgment.

72. This is not quite correct, so far as relates to Ireland. See 21 & 22 Geo. 3. c. 46. Ir., adverted to in No. 93.

No. 4. Mr. Commissioner STEPHEN, BRISTOL.

SIR,—I shall be obliged by your informing the Mercantile Law Commissioners that I have not sufficient acquaintance with the subjects to which their circular questions refer to enable me to transmit answers to those questions, as it would otherwise have given me pleasure to do.

The Secretary, &c. &c.

I remain, &c.,
HENRY STEPHEN.

No. 5. GERALD FITZ GIBBON, Esq., Q.C., DUBLIN.

SIR,—I am not aware of any important points of difference in the mercantile laws of the three parts of the United Kingdom, not noticed in the printed paper which I received from your department, and which is now before me.

In a practice of twenty-four years' duration at the bar of Ireland, and which, in Ireland, is considered an extensive practice, I do not recollect any instance of an inconvenience arising from the existence of differences between the mercantile law of Ireland and that of Scotland.

If an assimilation is to be made in the laws of the two countries, I very earnestly hope it will be by changing the law of Scotland; and that it will not be by changing the law of Ireland. First, because I believe it to be difficult to change long established laws without producing a greater amount of evil than of good; and, secondly, because I regard the statute of frauds as a highly beneficial law to the mercantile community. The recent changes in the law of evidence render this statute, as a protecting law, more essential than it ever was before. Whenever a case is to be determined on the testimony of plaintiff and defendant, it very rarely happens that they do not directly contradict, each the other. In most cases this is done with so much earnestness and persuasive plausibility, on both sides, that juries often disagree; and, when they decide, I fear it is not always in favour of truth and justice. It is therefore now, more than ever, necessary to the safety of property and character, that written evidence should be required in support of serious demands. Conversations and treaties constantly take place between merchants, touching the sale and purchase of goods, and end without the notion of a contract in the mind of either party; and, if the market remained steady, neither would think of asserting that a contract was made. A great change of price, however, makes it the interest of one party to allege a contract, and being a competent witness, if the law permits him to prove it, without a writing, false assertion is at once placed upon a level with truthful denial. If, on the other hand, written proof be dispensed with, many will rely on verbal agreements, and, upon a rise or fall of market, will be defeated by a mendacious denial of the contract. Dispense with the necessity of written proof, and premiums for falsehood will be daily presented of magnitude sufficient to endanger the strongest virtue.

This appears to me the most important matter involved in the questions submitted; and I have not time to consider the minor points of difference existing in the English and Scotch codes. I may, however, be excused for suggesting that the existing laws of every country have been produced, and brought to their present state, by the peculiar circumstances, and experienced exigencies of the people who have made or adopted them; and that this is especially true in relation to the laws of a free people; that different circumstances, different social habits, different sources of wealth, different employments of skill and capital are sure to produce very different laws; and that the existence of such different laws does not, of itself, afford any convincing reason, or even a good excuse, for abolishing laws that are known and well understood, and settled by decisions made at great expense of suitors, and for substituting strange laws, to be the subject of new and harassing controversies useful to those alone who profit by forensic disputation.

For these reasons, and many others, it is my opinion that no change of an established law can be justified without the clearest proof that it is productive of evil, or preventive of public good, and that the proposed substitute will be free from like objections. The desire for assimilation is, I think, a delusive guide, not to be trusted or hastily followed.

The Secretary, &c. &c.

I have, &c.
GERALD FITZ GIBBON.

No. 6. JAMES A. ANDERSON, late Manager of the Union Bank, GLASGOW, 17*th July* 1854.

1. My memory does not enable me to state any other points of difference in the Mercantile Laws of the three parts of the United Kingdom than those enumerated in the printed statement.

2. I cannot state any specific cases of inconvenience arising from these differences; but the fact of there being such differences, and the general want of knowledge and information respecting them, not only in the mercantile community, but in the legal profession in Scotland, is productive of frequent and serious inconvenience.

3. Although I have formed opinions, more or less strong, upon a number of the differences specified in the statement, I am sensible that these are founded upon much too slight and imperfect knowledge of mercantile law to make them of any practical value in the present inquiry. On the last item alone, I would take the liberty to repeat more strongly my former opinion, that limitation of liability being desired, not for the honest object of the safe employment of capital, which is at present perfectly free, but for the *dishonest* object of being enabled to contract unlimited debt without an unlimited obligation to pay, the Irish law on this subject ought to be repealed.

I am truly sorry that I cannot make a more full and satisfactory return to the request of the Honourable Commissioners.

27*th July* 1854.

When I made a reply, such as it was, to the request of the Honourable Commissioners on Mercantile Law, it did not occur to me that in the monetary department of the law, that with which I am most conversant, there exist important differences between the different divisions of the kingdom, not embraced nor adverted to, in the schedule of the Commissioners.

What I chiefly refer to are contained in the Bank of England Charter Act, and the Acts for the regulation of Joint Stock Banks, and their issues of notes.

Entertaining a very strong persuasion that the monetary measures of Sir Robert Peel were based upon a fundamental mistake, popularly known as "the Currency Theory," I cannot recommend any assimilation to one or other of the different systems founded upon that theory. Should the Commissioners desire it, I shall be ready to give my opinions upon the general question. In the meantime I will only observe that if the permission to issue notes under five pounds is found advantageous in Scotland and Ireland, there seems no good reason for its prohibition in England; and that, if here, the circulation may be extended indefinitely beyond the "authorized amounts," provided that the excess be "issued against gold," it is not very obvious why the English banks should be peremptorily prohibited from exceeding their specified amounts, on any account or under any circumstances, a prohibition which is greatly complained of.

No. 7. HUGH BARCLAY, PERTH.

Perth, County Buildings.

SIR,—I have to thank you for the very interesting paper on the differences existing between the laws of England and Scotland, which I have carefully perused.

In answer to your queries, I have to say,—

1. I am not *at present* aware of *other* points of difference between the laws of the two countries than what are stated in the said paper.

2. I am not *at present* aware of having experienced any inconvenience from *specific points* of difference. But I have always regretted that any *material* difference should exist in mercantile law and practice.

3. I recommend that differences be removed by assimilation, founded on extensive inquiry, patient deliberation, and adopting what is the *best* for the interests of *both* countries, without any undue partiality or prejudice to what is the *present* law of either country.

The Secretary,
&c. &c.

I am, &c.
HUGH BARCLAY.

No. 8. JAMES BROWN, a Director of the Bank of Scotland and Accountant, EDINBURGH.

SIR,—Having received a copy of the printed statement of the "Points of Difference in the Mercantile Laws" of the two kingdoms, with the circular request for a communication of what occurs thereon, I beg to mention, that as a Director of the Bank of Scotland, I have gone over the "Points" with Mr. Blair, the Treasurer of the Bank; and in that character and in my professional capacity, I concur in the views expressed in the return recently made by Mr. Blair, excepting those connected with the subject of Prescription, where I am inclined to prefer the law of Scotland to that of England.

The Secretary,
&c. &c.

I am, &c.
JAMES BROWN, Accomptant.

No. 9. James Brown, Merchant, Dundee.

I. I am not aware of any other points of difference in the mercantile laws of the three parts of the United Kingdom than have been stated in the very comprehensive list issued by the Commission.

II. I have not experienced inconvenience from the existence of specific differences; but my trade being partly with foreign countries and partly within Scotland, I have not been exposed to inconvenience from such differences. After having taken into consideration, however, the many points of difference stated in the list, I can well believe that much inconvenience may arise from them, and I think it would be highly proper to assimilate the mercantile laws in the three parts of the United Kingdom as speedily as possible.

III. The following are my opinions on the various points stated in the list:—

As to sale of Goods.—I prefer the English law as to constitution of contract, Clause 1st.; as to effect of contract on ownership, Clauses 2 and 3; as to sale before execution against seller, clause 7; as to sale after execution against seller, clause 8: as to distress, clause 12; and as to sale of stolen goods, clause 13. With regard to the other clauses under the head of Sale of Goods, I prefer the law of Scotland.

Bills and Notes.—I prefer the law of Scotland in all the points stated.

Limitation or Prescription.—I think the law of Scotland preferable.

Shipping.—The law of Scotland as to the sale of shares is, in my opinion, better than the law of England.

Lien.—The law of England is preferable.

Bailments.—I prefer the law of Scotland.

Mercantile Guarantee.—Ditto.

Principal Debtor and Surety.—Ditto.

Debtor and Creditor.—Ditto.

Private Partnerships.—Ditto.

Joint Stock Companies.—I am not aware of any injurious consequences having been felt from the circumstance of the registration of joint-stock companies not being compulsory in Scotland; nor am I aware that injurious consequences have been felt from the circumstance of registration being compulsory in England and Ireland.

I am of opinion that partnerships with limited liability to dormant or non-acting partners would be beneficial to some extent, such partners being liable only to the amount of the shares subscribed for by them, But I am decidedly of opinion that the *acting* partners should be liable to the creditors of the partnership, not only for the amount of the shares subscribed for by them, but also to the full extent of their other properties both personal and real.

No. 10. Allan Gilmour, Merchant, Glasgow.

1. I am not aware of any points of difference other than those referred to, or included in the print issued by the Commissioners.

2. I am aware that inconvenience and difficulty often arise from the existence of differences in the laws, especially as to contracts, where it is doubtful whether they are to be treated as English or Scotch contracts.

3. I would recommend that the mercantile laws of England, Scotland, and Ireland should be assimilated in all respects, if practicable. I am not sufficiently acquainted with the details of the working of the laws of the different kingdoms, as to recommend to the Commissioners the manner in which they should be assimilated, but the following remarks have occurred to me on a perusal of the print.

Sale of Goods.

With reference to the constitution of mercantile contracts, I think that the English law is preferable, and that it should be made imperative that all contracts, to be legally binding, especially where large amounts are involved, should be constituted by written memoranda of some kind. If this were the rule, all contracts would come to be reduced to writing, and thereby many disputes arising from mistakes or misapprehension, would be prevented, and the fair dealer would at all times be in a position to prove the terms of his bargain, against a dishonest trader. Besides, I believe that many parties verging on bankruptcy dispute bargains, with the view of gaining time arising from the delay, and sometimes difficulty, in many cases, of proving verbal bargains, while if the bargain were distinctly set down in writing, he would not venture to dispute it. From this cause the creditors' loss is often considerably increased ultimately by the addition of law expenses. I may here refer to a matter in connexion with contracts, as to which there has been a good deal of litigation, and wherein I understand the law of England differs from that of Scotland. I refer to what are called "delivery orders" for goods or merchandise which it has been the practice in Scotland to pass from hand to hand, but in consequence of the property not passing to the buyer, under the Scotch law, until delivery and the anomalous (legally) nature of the documents themselves, great hardships often arise. For instance, an importer sells to a customer a large quantity of produce, taking

the buyer's bill for the amount, to whom he gives an order for the delivery of the goods, upon which the buyer would at once get delivery if he wished it. As a matter of convenience, however, the goods may not be taken delivery of, as the buyer may intend immediately again to sell them, which he subsequently does, and passes the order of delivery to the new buyer, and often the order for the goods passes in this way through several hands. If misfortune should have overtaken the original buyer, before the payment of the bill given for the goods, or even I believe, if he owes a general balance to the original seller, the latter may retain the goods against all parties until he be paid. I understand the operation of the English law in this respect to be different, and I would prefer the English to the Scotch rule, (1st.) because I think that if the original seller arms his purchaser with an order of delivery, the mercantile community are entitled to hold, that in so far as the granter of the delivery order is concerned, the buyer has the absolute and uncontrolled right to the goods, and is entitled to get delivery thereof, under any circumstances; and (2nd.) because if the original seller wishes to retain the control of the goods until he gets payment of the price, he can decline giving a delivery order until he be satisfied.

Bills and Notes.

With regard to bills and notes, I think that the law of England should be assimilated to that of Scotland by the extension of the summary diligence system, so long beneficially in use in Scotland.

Also that the *bonâ fide* indorsee should in England, as in Scotland, not be subjected to latent objections attaching to the bill, which should only be pleadable as against the acceptor.

Debtor and Creditor.

In regard to the administration of estates of deceased persons, I cannot see the object or utility of the preference given to some kind of otherwise unsecured debts over others. All debts secured over the deceased's property which would have been preferable in the event of his bankruptcy should also be preferable in the event of his death, but beyond this (except sick bed and funeral expenses) it appears to me to be unjust that any rule but that of *pari passu* ranking should be applied.

I cannot see that it serves any good purpose to require the person adducing a formal deed or writing as evidence in England, to prove the signature to it, while it often occasions great inconvenience and expense. I think that the Scotch rule which throws the burden of proof upon the party challenging a formal deed, is preferable, and in practice is, I believe, unexceptionable.

I consider that the effect of notour bankruptcy in Scotland has a beneficial effect in cutting down preferences, &c. in cases of bankruptcy, and might with equal benefit be extended to England.

No. 11. Richard Miller, Merchant, Leith.

I have to acknowledge the receipt of the abstract of points of difference between the English and Scotch law touching mercantile affairs; but the questions are of such a nature that I could not think of expressing a decided opinion in each individual instance, although, generally, my own feeling is that, in the main, I decidedly prefer our Scotch system.

In the course of daily business and correspondence with England, however, I am not aware that the firm with which I am connected has ever suffered loss or inconvenience in consequence of the laws of the two countries not being exactly alike.

No doubt the laws of both countries are capable of amendment; and whether by adopting new provisions into either from the existing laws of the other, or by modifications borrowed from the institutions of other nations, it would be very desirable that we should enjoy as perfect a system of law as possible on either side of the Tweed; but in so far as I can trust myself to judge, I must say that I do not see any important advantage which the mercantile community could expect to reap from any formal attempt to assimilate the laws of the two countries, while much loss and lasting inconvenience might be caused by the introduction of comparatively unimportant changes; and it appears to me, that beyond remedying what is obviously defective in the laws of either England or Scotland, it would be very undesirable to attempt to alter what worked tolerably well in either country, in obedience to any mere abstract view to assimilation.

No. 12. James Potts, Merchant Coal Fitter and Shipbroker, Newcastle-upon-Tyne.

"Newcastle-upon-Tyne, 1st January 1851.

"Received of Mr. James Potts the sum of three pounds for the use and on account of
"ship 'James and Isabella,' of Dundee, and owners.
"£3. (Signed) John Hart."*

* John Hart is the captain of the vessel.

Advances made to ship captains under the form of receipt, as above, are not recoverable in Scotland, unless the plaintiff can prove the cost so advanced *has been disbursed* for the ship. It has been so settled in a case, the plaintiff being a ship broker, and the defendant the ship owner,—which is a great hardship; and it would be an inconvenience to trade were advances not made to captains under the form of receipt in question.

The Mercantile Law should be the same for the entire United Kingdom of Great Britain and Ireland—uniform and comprehensive. I trust the commission may attain this desideratum.

No. 13. Chamber of Commerce and Manufactures of Edinburgh.

Sir,—The directors have not considered it necessary to answer articulately the queries issued by the Mercantile Law Commission; but the directors have considered them sufficiently to instruct me to state that, in all important particulars, they think the Mercantile Law of Scotland preferable to that of England; and to refer you to the Note of Difference between the two laws transmitted to the Commissioners by Lord Curriehill in December last, with the opinion of the Chamber therein very deliberately adopted. A copy of the Note of Differences referred to [No. 16 b.], and also of the Chairman's Letter to Lord Curriehill of 8th December last [No. 16 a.] above referred to, are herewith transmitted to you.

The Secretary, &c.

I am, &c.
William Law, Hon. Sec.

(No. 13 a.)

Edinburgh, 8th December 1853.

My Lord,—I understand that Mr. Alexander has already sent your Lordship prints of the Note prepared by him for this Chamber of the leading points of difference between the Mercantile Law of England and of Scotland; and I have now to inform your Lordship that the directors, after fully discussing and considering the subject at successive meetings, have almost unanimously been of opinion that the Mercantile Law of Scotland is greatly superior to that of England, and that no change should be made therein about the ground of assimilation or otherwise, except, 1st. To the effect of rendering it necessary to give notice of the dishonor of inland bills immediately, in place of any time within fourteen days as at present; and 2dly. That merchants' accounts should be subject to sexennial in place of biennial prescription.

The directors, however, are desirous that it may be understood that the Bankrupt Act of 1839 ought to be amended in the particulars stated in the accompanying Report and suggestion by Mr. Alexander on the subject, and that the amending Act of last session is exceedingly imperfect.

The Directors trust that your Lordship will be so good as to bring their views under the notice of the Royal Commission, of which your Lordship is the only member in Scotland.

I have, &c.

The Hon. Lord Curriehill.

John F. Macfarlane, Chairman.

(No. 13 b.)

Note of Leading Points of Difference between the Mercantile Law of England and of Scotland.

(*Prepared for the Chamber of Commerce of Edinburgh.*)

Contract of Sale.

By the Law of England, as embodied in an Act of Parliament known as the "Statute of Frauds," an agreement for the sale and purchase of goods above the value of 10*l.* must be reduced to writing. Delivery of the whole or part of the goods, or payment of part of the price may also be founded on in proof of the sale.

By the Law of Scotland, the sale and purchase of goods to any amount may be proved by the parole evidence of witnesses, without the intervention of any writing.

In England, payment of the price may be proved by the parole evidence of witnesses.

In Scotland, payment of the price must be proved by a written acknowledgment of the seller, or by a reference to his oath.

In England, the concluded agreement to sell transfers the property to the buyer.

In Scotland, the property is not vested in the purchaser till he receives actual delivery.

The effects of the last-mentioned dissimilarity principally exhibit themselves on occasion of the bankruptcy of the seller or purchaser.

In England, an agreement to purchase a quantity of goods, requiring separation from a larger quantity, or goods to be collected and furnished, is not considered a proper completed contract of sale. In Scotland it is.

In England, the seller is not presumed to warrant the quality or soundness of the goods sold. In Scotland he is.

Partnership.

In England, an unincorporated company cannot sue or be sued in name of the firm.

In Scotland, a mercantile firm, such as John Henderson and Company, may sue and be sued in name of the firm, but not if the firm is such as "The Edinburgh Baking Company," or the like.

In England, on the bankruptcy of a company and individual partners, as such, the creditors of the company cannot rank on the estates of the individual partners till after the creditors of the partners for individual transactions or obligations are paid in full.

In Scotland, the creditors of a company, and of the individual partners, as such, rank upon the estates of the partners *pari passu* with their creditors, as individuals, after deduction of the dividend estimated by the trustee on the estates of the individual partners to be receivable from the company's estate.

Bills of Exchange.

In England, a bill, drawn and accepted by two persons, both of whom reside in England, need not be protested by the holder for non-payment to preserve recourse against the drawer and indorsers.

In Scotland, all bills must be protested for non-payment during the three days of grace, to preserve the recourse of the holder against the drawer and indorsers.

In England, notice of the dishonour of all bills must be given by the holder to the drawer and indorsers immediately.

In Scotland, notice of the dishonour of bills, the drawers and acceptors of which are resident in Scotland, and thence termed inlandbills, may, in terms of the Act 12 George III. cap. 72, made perpetual by 23 George III. cap. 18, be given any time within fourteen days after the date of the protest. The rule as to the intimation of the dishonour of other bills, termed by us foreign bills, is the same as in England.

In England, an accepted bill must be recovered by the same form of process required for recovery of an ordinary debt by open account.

In Scotland, registration of the protest in the books of the Court of Session, or in a Sheriff Court, gives the holder of the bill right to summary diligence against all the obligants.

Lien.

In England, a lien or security upon the property of a debtor can be claimed only by custom or express agreement.

In Scotland, a creditor is entitled to retain any goods belonging to his debtor until he is paid any debt owing to him by the owner of the goods.

Set-off.

In England, no set off is allowed, except where it arises between the parties in the same rights or capacities in which the debt itself arose.

In Scotland a single partner of a company may set off a debt due to him as an individual against a claim against him as a copartner by a creditor of the company.

Prescription of Obligations.

In England, all debts by simple contract prescribe by the lapse of six years.

In Scotland, the time of prescription is various, ranging from three to forty years.

In England, a debt cut off by the Statute of Limitations cannot be reared up by a reference to the oath of the debtor.

In Scotland, it may, unless it has undergone the long negative prescription of forty years.

Sales by Auction.

By the Law of England, a certain degree of interference at the sale, to enhance the price or protect the seller against the article offered for sale being knocked down at an undervalue, seems to be permitted, but by the Law of Scotland all such interference is illegal.

Stolen Goods.

By the Law of England, a sale of stolen goods, if it take place in a public market, is good; but by a recent statute, upon the conviction of the thief, the owner of the goods stolen is entitled to reclaim them even from a *bonâ fide* purchaser.

In Scotland, the true owner of the stolen goods may claim his property even after sale in a public market.

Goods attached for Debt.

In England, even after a writ of execution has been delivered to the sheriff, the property may be legally purchased if in open market.

In Scotland, goods, after a completed poinding of them, cannot be sold even in open market to the prejudice of the poinding creditor.

Bankrupt Estates.

In England, the estate is from the outset, till it is finally wound up, placed under the management and superintendence of a Court of Bankruptcy, official assignees, &c.

In Scotland, the creditors on the estate are allowed to elect a trustee and commissioners for the management, sale, and division of the estate, without any judicial interference, unless their proceedings are complained of by a creditor or the bankrupt himself; but by a recent statute an interim factor is appointed by the Lord Ordinary or the sheriff to take possession of the estate till the election of a trustee.

Collision of Ships at Sea.

In England, damage sustained by collision at sea forms a preferable claim against the vessel at fault, even as against a subsequent *bonâ fide* purchaser.

In Scotland, such damage only forms a personal claim against the owners of the vessel.

Edinburgh, 1st November 1853. W. Alexander, W.S.

No. 14.—Germain Lavie, 8, Frederick's Place, Old Jewry, London, Solicitor. (One of the three persons to whom the queries issued by the Commission were referred by the Incorporated Law Society.)

It is submitted that, in the consideration of the differences which exist between the Mercantile Law of England, Scotland, and Ireland, it is not only expedient to reconcile or destroy those differences, but also to establish a system of Commercial Law which shall be free from any antiquated doctrines of technical character, and fairly accommodated to modern views and habits.

It is also submitted that, in establishing such a system of commercial law, it is expedient only to lay down general principles, and not to legislate merely upon particular points of difference.

Sale of Goods.

Taking then the first series of points relative to the sale of goods and chattels, it is submitted that it is of great importance as far as possible to avoid uncertainty and conflicting evidence as to the *constitution and construction of contracts.*

Although sometimes injustice may have been done by a rigid application of the Statute of Frauds, its principle appears good, and it may become a matter of future regret if the value of the Statute of Frauds be questioned.

It appears singular that in Scotland, where evidence of payment is not admissible except in writing, oral evidence of the terms of a contract should be admitted.

On the whole, it appears to be expedient to extend the provisions of the Statute of Frauds to Scotland; but it is to be considered whether the statute itself is not open to improvements.

Its exceptions are,

1st. The acceptance and receipt of part.

2d. The payment of something in earnest.

These exceptions have been and always will be a fruitful source of litigation.

It is for consideration whether on the whole it would not be better to provide that even actual delivery and acceptance should not enable parol evidence to be given of a contract.

If a delivery be made by the owner and possessor of goods without the precaution of having the terms of the sale in writing, it appears no injustice to say that he must take the consequences.

And so as to the payment of a small sum in earnest.

These acts give no facility to explain what were the terms of the bargain. They show that some sale has been made, and they show no more. The principle which admits them as giving validity to a contract, so as to admit of parol evidence of the terms of the contract, appears to be contrary to the general principle of the statute. Its existence lets in all the danger of uncertainty and perjury, as to the terms of the contract, and the providing that no evidence shall be given of any contract for the sale of goods without any exception would appear to prevent litigation, and would not appear on the other hand to hamper commerce or work injustice.

It is obvious that the mere fact of giving possession of the whole, or of a part, or the payment of earnest, accompanied as it must be by some verbal agreement as to the terms of the contract, is quite as troublesome as writing out a contract, and takes as much time.

It is lastly to be observed, that if this law, requiring a writing in all cases of sales of goods, be introduced for the first time into Scotland, it appears convenient that it should be introduced in a consistent shape.

The limitation to 10*l.* is not necessary, but is hardly material.

Unless a clear and consistent law were introduced in Scotland it might be better to leave the present Scotch law as it is.

As to the *effect of contract on ownership*, it is submitted, as a general rule or principle,

That if a person either sells himself or expressly or impliedly authorizes another to sell specific goods, the vendee ought to have a right to possession of these goods on fulfilment of his part of the contract of sale, and ought not to lose that right of possession, unless he has enabled the seller, by some wilful act or default of his own, to continue the apparent owner, or unless the obtaining possession would (as in case of known insolvency of the buyer whose goods are sold on credit) put the buyer in possession without the same means of payment as appeared to exist when the buyer bought the goods.

It is to be observed,

1st. That it appears a defect of the English law, and contrary to the principle above stated, that a buyer cannot obtain possession of a specific article bought, but only damages.

[It is to be observed that the last Common Law Amendment Act gives a remedy for obtaining possession of goods belonging to one and detained by another.]

2d. It appears absurd that the distinction between sales in market overt and other sales should in modern times exist.

3d. And no less absurd that the validity of a sale in market overt should be good if the thief is not convicted, and bad if he is.

On the other hand it is to be observed,—

4th. That it appears very illogical in the Scotch law, that whilst they give the buyer a right to the specific delivery of the article they should deny all right of property until the delivery. It can only be made consistent by assuming that all sales on credit are invalid, which would be out of the question.

5th. It appears equally illogical to say that the buyer shall be liable for accidents though he has no property.

It then appears necessary, on this point, to consider what ought to be the rule as to *liens*.

The Scotch law appears to recognize a general lien in every case.

It would appear desirable that upon this point of general liens there should be some wide principle laid down one way or the other in the assimilation of the laws.

If there is to be in all cases a general lien, there appears to be no reason why a vendor having possession of the goods should not have a lien on them for a general balance.

It may be a matter of regret to have any legislation which should confine the question of general lien to the case only of vendor and purchaser.

Let the general question be boldly grappled with. People differ as to the expediency or inexpediency of general liens; but all will probably agree that there should be some general principle and rule one way or the other.

If there is to be a general lien, let it be universal, and not confined to particular classes. Let lawful possession of every kind give lien.

If there is not to be such general and universal lien, say that there shall be no general lien at all. Many have thought that on the whole it might have been best that there should be no general lien at all; that there should be a specific lien in each transaction, but nothing more.

But general liens are so far now recognized in both countries that they cannot perhaps be done away with, and therefore it would appear to be not inconvenient that they should be universal in all cases of rightful possession.

Acting upon these principles it is submitted,—

1st. That *no parol* evidence should under any circumstances be admitted to prove the terms of a contract of sale, except where it has been executed. (No. 1.)

2d. That the buyer, as against the seller, his assignees, and execution creditors, and as against all other persons, should be entitled to possession of the specific article purchased by him on his fulfilling his part of the contract. (No. 7.)

3d. The execution creditor and assignees of the buyer should have the same right, but subject to stoppage *in transitu* and to general lien. (No. 7.)

4th. That this right should be capable of being enforced by specific performance, even in case of bankruptcy of vendor, and that the buyer should also have the right to claim damages for any loss from the goods being withheld when demanded. (No. 5.)

5th. That this right should be equally enforceable against a second and subsequent vendee, unless the vendor has wilfully left to the first vendee the apparent ownership of the goods. (No. 4.)

6th. That the whole doctrine of Market Overt should be done away with. (No. 13.)

7th. That all general liens should be universal. (No. 3.)

8th. That the payment of the price should be capable of being proved by oral evidence. (No. 14.)

9th. That the buyer should be liable for the price of goods sold, though not specified, provided goods according to the contract should have been tendered. (No. 6.)

Then, as to the other points on this part of the inquiry,—

As to No. 9, it would appear to be not absolutely unjust nor utterly inconvenient that there should be an implied warrantry on the part of the vendor that the article sold should be fit for the purpose for which it is bought, if the seller knew or may be fairly inferred to know that purpose. But the law has always been otherwise in England and America, and in the latter country has been much discussed, and on the whole it appears to be most convenient, for the sake of preventing litigation and preventing questions being unsettled between buyer and seller, and to make buyers cautious, that a contract of sale of an article not expressly made for the buyer should not be supposed to have any implied warrantry. If there be any wilful concealment on the part of the seller it may be fraud.

On No. 10, it appears to be most honest, and not inconvenient, that the seller should be obliged to give notice of his intention to employ a person to bid at auction.

The eleventh point, as to the measure of damages, is one of serious difficulty, and must be felt to be so by anybody who has had any experience of the working of two different principles in England and Scotland, and it applies to other matters as well as to sales.

In England, a person who does not fulfil a contract appears hardly to be looked upon as a wrong doer, however wilful and absurd he may be in not fulfilling his contract.

In Scotland, he appears to be looked upon in all cases as a wilful wrong doer, although he may be prevented, from unavoidable causes, from fulfilling his contract.

In the former country the buyer often gets less than an indemnity, in the latter he often gets very much more.

In any assimilation of the laws of both countries it would appear natural to lay down some general principle as to damages which would apply to all cases.

It often appears hard that a vendor in Scotland, who is unavoidably prevented from delivering what he has sold, should be punished by having to pay in damages a very large sum because the value of the goods happens to have risen. Such a rise may be quite accidental and unexpected. It may not have been in the contemplation of either party. It may have been the intention of the buyer to have resold directly, and before the time at which the article arrived at its highest market value. There would appear to be no great justice to say that the vendor should be punished and the purchaser benefited in consequence of such an accident as a great rise in value of an article in the market.

On the other hand it not unfrequently happens in England that a vendor does not fulfil his contract from some wilful motive, and without any justifiable cause, and when the market unexpectedly rises he gets a benefit by his own wilful breach of contract, because he resells the goods at a better price, and he only gives the purchaser that which was the market price at the time when he broke his contract.

It has been suggested that the judge, or jury, or whoever has to decide damages, should be at liberty in all cases to look into all the circumstances, and undoubtedly this principle would appear to be the best; but it is liable to the danger of an erroneous view being formed of all the circumstances.

On the whole it appears it is best to adopt neither the English nor the Scotch rule, but to look to all the circumstances of each particular case, and even to run the risk of those circumstances being occasionally misunderstood, or of there being an undue importance attached to them.

Bills and Notes.

The whole series of queries on bills would be perhaps best dealt with by some general principles being laid down, which would apply to all bills drawn or payable in the United Kingdom, and those general principles ought to be made consistent with such principles of foreign countries as are good and fit to be adopted.

It is unfortunate that there is not an universal and international law of all the world as regards bills and notes.

It is submitted,—

1st. That all bills drawn from one part on another of the United Kingdom should be inland bills. (No. 17.)

2d. Protests for such bills appear unnecessary, and presentment should be proveable without a notary. (Nos. 18 and 26.)

3d. That there be a fixed time rather than the vague rule of reasonable time for giving notice of dishonour. All countries except England and America have a certain number of days. Fourteen days appear too much. (No. 25.)

4th. All bills and notes should be negotiable. (No. 28.)

5th. The acceptor of a bill of exchange or note, who can show that it was lost or stolen from him, should have a right to call on the holder to prove his title to sue. The acceptor from whom the acceptance has been obtained by fraud is perhaps not entitled to the same advantage. This point, however, appears to involve rather a question of practice as to the mode in which a trial is to be conducted than any general principle.

The principle is, that bills being negotiable, a *bonâ fide* holder of a bill or note for value ought to have a *primâ facie* right to recover. (No. 20.)

6th. The question as to minors and married women must be regulated by some general rule as to all transactions, and not merely as to bills and notes.

The rule of Scotch law cannot be adopted as to bills in England without adopting it as to all contracts.

The same may be said if the English law is adopted for Scotland. (Nos. 21 and 22.

7th. It seems reasonable that all corporations whose business naturally leads to acceptance of bills should be bound by bills in the ordinary shape without seals. (No. 23.)

This leads to an important distinction between Scotland and England as to deeds and mere writings.

In Scotland, all writings, whether under seal or not, appear to stand on the same footing. Ought it not be so in England?

Ought not all distinction of deeds and other writings, and specialty and other debts, to be abolished? A few observations on this point hereafter.

8th. The whole and most important question as to *parol acceptances* of inland and foreign bills is involved in these queries. (Nos. 31. and 32.)

In Scotland, the law which only admits of acceptance on the face of the bill applies to foreign bills as well as inland.

The law of England differs from the law of America as to the acceptance on the face of the bill.

If there be any assimilation of the law of Scotland and England, this point of the law of England ought to be dealt with. Many think that the Scotch rule is the best.

In the abstract it may be so, but of late years a vast deal of business has arisen on letters of credit, and there is a general feeling that our law should be assimilated to the law of America, which is running just in the contrary direction. The advocates of that view would allow acceptances (not on the face of the bill) of non-existing bills.

Unless the Scotch law be adopted the American law ought to be adopted.

You must either have one principle or the other, and not have a course sanctioned by law which is neither one nor the other.

That an engagement to accept an existing bill should be an acceptance on which any holder may recover, and an engagement equally distinct to accept a bill drawn and even taken on the faith of the engagement should not be an acceptance, appears to be a technical distinction which ought not to exist.

There is one other important difference between the laws of the two countries, viz.: the speedy remedy on bills of exchange which prevails in Scotland, and which it has been wished to introduce into England. (No. 29.)

If no man had ever more than one creditor, of course the more summary the remedy the better.

But in a great commercial country it is at least doubtful whether all speedy remedies which give one creditor a preference are not mischievous.

The old principle of law was in favour of a system which secured an equal division of a debtor's property amongst all his creditors.

Of late years a different principle has crept in, and the object appears of late to have been to give the individual creditor as speedy a remedy as possible without regard to the other creditors, who may thus lose all means of payment.

This mischief would be increased in England by giving a preferential mode of enforcing bills of exchange; and it appears difficult to give any good reason why bills should be on a better footing than a bond or any other debt.

Limitation and Prescription.

The English law of limitation and prescription ought to be adopted in Scotland in all its details.

Shipping.

No. 43. There are occasions where the Scotch course of proceeding between part owners has appeared to be convenient.

But, on the whole, looking to the subject on public grounds, it would appear better to leave the law as it is in England, and it was so thought in the House of Commons in the last session. As the law of Scotland has prevailed in that part of the kingdom, there appears to be no alternative but to destroy that course of proceeding in Scotland if it is not adopted in England.

The alternative of introducing it into England appears to be less forced than that of destroying it in Scotland.

But is it absolutely necessary that all the laws should be assimilated?

Lien.

No. 44. As to liens for wages, the English rule appears most convenient, but the case rarely happens. A sailor has always a lien on a ship though it be sold. It is questionable whether this should be so, but at all events it need not be extended.

No. 45. This query comes under the head of general liens already discussed.

No. 46. There appears to be no reasonable ground for the rule of Scotch law, which precludes a man from giving real security for future debts, and it is contrary to the spirit of the age.

Bailments.

No. 47. It may be asked why in England are carriers to be liable for accidental fire, and why are warehousemen not liable? The difference may be founded on technical rules of old law, and upon the implied engagement of every carrier to convey and deliver the goods in safety. Is there any good sense in the distinction? It is assumed that in Scotland the warehouseman, *à fortiori*, is not liable for accidental fire.

It would appear most convenient to adopt the Scotch law in all cases of accidenntal fire

No. 48. A man who hires the goods of another, and has thereby the possession of them, and knows all that may happen to them whilst in his possession, ought to be able to explain why he does not return them, or why, when he returns them, they are not in as good a state as when he received them.

This may equally apply to a carrier or warehouseman who receives goods.

The party who has not possession has not the same knowledge or means.

It would appear most convenient that in every case a party who receives the goods of another should be bound *primâ facie* to prove that he has not been negligent in taking care of the goods whilst in his possession.

Mercantile Guarantees.

No. 49. The same reasons which apply to contracts for the sale of goods might appear to apply to all promises to answer for the debt, default, or miscarriage of another.

But the subject appears to extend beyond the mere point of assimilation of the laws of the two countries.

What is the principle which ought to apply to all mercantile contracts? Is it better or not that all contracts of every kind should be in writing?

The question of assimilation of the two laws appears to depend on the settlement of this important question.

The rule of Scotland on the point of difference (No. 53.), viz., that a guarantee *from* a firm consisting of two or more partners ceases, but a guarantee *to* a firm does not always cease on a change taking place in the firm, appears to recommend itself.

It frequently has happened that the rule of English law, which is very technical, has worked great injustice.

It applies not merely to guarantees.

There appears to be no reason why, if a man deals substantially with a firm, any alteration of the partners in that firm should enable him to set up a technical objection founded on an alteration of the partners, which may have had no effect whatever on the dealings between him and the firm.

But the consideration of this point appears to involve much wider considerations of the law of partnership generally.

Surety or Cautioner.

It is submitted that general principles or rules should be applicable to both countries, viz.

1st. That a creditor who takes the precaution of having a surety, should have the most ready and complete remedy possible in case of the default of the principal debtor, and that, therefore, there should be no difficulties thrown in his way either by principal or surety.

2d. That any surety who pays the debt should have all the rights of the creditor, both as against the principal or his co-surety, or against any property upon which the creditor had any rights, until he was paid.

3d. That a surety who does not pay should not be allowed to dispute his liability, unless he can show that he has been really injured by any arrangement which the creditor may have made, either with the principal or any co-surety, or in respect of any property which is included in the guarantee.

Considering these principles, it may be said,

On the first query—The creditor should be at liberty, as in the English law, to take his remedy at once against the surety after default by the principal. (No. 54.)

On the second—The surety should be at liberty, as by the Scotch law, on payment of the debt, to stand in the principal's place. (No. 55.)

On the third—The Scotch rule appears preferable, and the discharge of the surety should not prevent his claim against the others. But the arrangement made by one surety with the creditor ought not to alter or affect the claim which the other surety may have against the principal or against the surety who has arranged with the creditor. (No. 56.)

The other two queries upon this head have been in principle discussed, and it is submitted that the English law is preferable.

There are two queries (Nos. 68. and 69.) on this head, in which the Scotch law appears to be preferable.

DEBTOR AND CREDITOR.

Nos. 59. and 60. The whole law of minors and married women ought to be the same n all parts of the law, and not merely the Mercantile Law.

It is a difficult subject.

The exception as to married women in the City of London can hardly be supported by reason.

The law of England as regards married women appears to differ from that of all other countries in many points.

All that can be said is, that if the subject is to be dealt with at all, it must be by some comprehensive principle applicable to all cases of incompetency, either for minority or coverture.

Nos. 61–65. As regards administration of deceased's estate, and retainer and pre ference, it is submitted,—

That all the rules in both countries which give any priority in payment of debts should be abolished.

That all distinction between bonds, covenants, and other writings should be abolished, not only in case of administrations of deceased, but in all branches of the law.

It is quite extraordinary that a different course of proceeding, or a different right, should have been given to a bond or instrument under seal, considering that a seal was only originally used because parties could not write.

It appears no less extraordinary that there should be rules of estoppel and other technical rules applied to deeds, and that a different construction may result from the same state of facts where a policy or charter is or is not under seal.

If the anomalous differences between English and Scotch law are to be abolished the anomalies in the English law should be equally so.

PARTNERSHIP.

The whole law of partnership ought to be made identical in the two countries.

But the subject is one which involves a treatise, and must be considered in all its details.

No. 15.—Report by the SPECIAL COMMITTEE of the COUNCIL of the LIVERPOOL CHAMBER OF COMMERCE on the Statement of Differences in the Commercial Laws of England, Ireland, and Scotland, as transmitted by the Royal Commission on Mercantile Law.

Your committee have to report that they have collected four replies to the sets of interrogatories, two of which, by members of the committee, viz., Mr. E. Heath, Vice-President, and Mr. C. Robertson, may be considered as embracing with tolerable unanimity the joint opinions of the committee, having been written after the discussion of the questions at each meeting.

Many of the printed questions relate to technicalities which can be better answered by lawyers or other parties conversant with legal language.

Others refer to subjects which can be more justly appreciated by persons connected with Joint Stock Companies.

A third class do not belong peculiarly to trade or commerce, but are of equal interest to all classes of the community—such as the rights and liabilities of minors and married women.

Your committee believe that any attempt to obtain a collective reply from the Chamber or Council would be unsuccessful, or at least attended with great delay; and they recommend, therefore, that the answers accompanying this report, signed by the respective writers, should be returned to the Royal Commissioners, to which may be added hereafter any additional replies which it is suggested the Council should now invite from its own members.

The committee are not aware of any other points of difference in the Mercantile Law of the three parts of the United Kingdom than those noticed in the printed list.

With regard to the inconveniences arising out of the said differences, beyond occasional ones connected with the working of bankruptcies where there are creditors both in England and Scotland, your committee have no personal experience; but they think, if the members of the Chamber at large be referred to, many other instances may be elicited.

But, in the opinion of your committee, annoyance and grievance arise much more frequently from the want of uniformity of procedure and of concurrent jurisdiction of the tribunals of the three kingdoms. Owing to these defects a claimant, either in cases of debt or tort arising in England, is as effectually barred from obtaining redress against a man residing in Ireland or Scotland, or vice versâ, as if the latter were living in a foreign country. To remedy this evil your committee recommend that the Royal Commissioners be urged to move—

1st. In respect of the differences in the laws of the three kingdoms, that the whole be subjected to one uniform revision and codification; and

2d. In respect of procedure, that the courts of law of the three kingdoms, similar in constitution, whether of equity, common law, or bankruptcy, have concurrent juris-

diction; and that their writs, summonses, subpœnas, decrees, and judgments run as freely from one end of the United Kingdom to the other as do now their processes within the boundaries of the three countries, England, Ireland, and Scotland respectively.

Adopted by the Council, 1854.

No. 16.—Society for promoting the Amendment of the Law.—London.

Sir, Office of the Society, 21, Regent Street, London.

The Society having referred the paper issued by the Assimilation Commission to their committee on Commercial Law, of which W. Hawes, Esq., is chairman, it was thought proper that the latter committee should consider the various points stated in the paper in conjunction with the Committee for the Amendment of the Law of Debtor and Creditor, of which the same gentleman is also chairman. The answers which were agreed on have been already transmitted to you by the latter committee; but as there were a few points on which several members of the Law Amendment Society's committee differed from the views entertained by a majority of the other committee, Mr. Hawes has requested me to state these for the consideration of the Commissioners.

The first and most important point was with regard to the 17th section of the Statute of Frauds, and the 7th section of 9 Geo. 4. c. 13; the repeal of which a majority of the members of the Law Amendment Society's committee considered as the best and most expedient mode of assimilating the English and Scottish laws touching *the constitution of contracts*. In the first place, they considered that it would be quite out of the question to introduce the provisions of the English law on this matter into Scotland, and that a decision in favour of the English law would be tantamount to an abandonment of the whole scheme of assimilation. To enact such stringent provisions with regard to the most important subject connected with commercial law for a country where they have not hitherto been known, and where the want of them has never been felt, would be regarded as a great fetter on commercial dealings, and would be most strenuously opposed, there is every reason to believe, by the mercantile community of Scotland. On the other hand, to repeal those provisions in England, would only be going back to the original principles of the common law, leaving writing to be used where it was deemed expedient, and leaving frauds and perjuries arising from mercantile contracts to be guarded against in the same way as in other transactions. These views were further strengthened by the consideration that in a large class of contracts in England, those between wholesale and retail dealers, the provisions referred to are practically disregarded, and that they are seldom brought into operation in courts of law for the purpose of excluding parol evidence without defeating substantial justice. It appeared also to those who were in favour of these views, that in contracts between merchants and merchants, where the provisions of the Statute of Frauds are now commonly followed, the prudence and sagacity of the parties might be safely left to adopt whatever mode was deemed best and most convenient, and that wherever brokers were employed, their own interest would lead them to commit contracts to writing as invariably as at present. The tendency of recent legislation has also been to throw off the restrictions which narrowed the evidence that could be submitted to a jury; and to exclude evidence of a contract for the sale of goods above the value of 10*l*., because it is not in writing, is a restriction on evidence as much as the exclusion of parties as witnesses, the abolition of which rule and other changes recently introduced afford an additional reason for allowing contracts of the kind referred to to be proved by whatever satisfactory evidence can be adduced.

Another point on which a majority of the members of the Law Amendment Society's committee entertained a different view from that agreed on by the other committee was with regard to the Scotch rule relating to *implied warranties*. It appeared to them that the adoption of the Scotch rule would tend greatly to simplify the English law on this subject, and to prevent many cases of unquestionable hardship which now often arise.

They also did not agree with the view that *summary diligence* should be restrained to makers and acceptors, as they could see no substantial reason why indorsers should not be liable to the same process. And with regard to interest on book debts which I suggested as a point omitted in the paper of the Commissioners, they were inclined to think that it might be wise to extend the provisions of 3 & 4 W. 4. c. 42. s. 28., so as to afford a safe rule for the measure of damages in all cases where a liquidated sum is payable at a fixed time, or where a demand has been made.

There were a variety of other points on which the majority of the Law Amendment Society's committee entertained considerable doubts, but with regard to which they were willing to defer to the great experience and ability of the members of the Committee for the Amendment of the Law of Debtor and Creditor.

A. Edgar,
Secretary to the Committee on Commercial Law.

To the Secretary of the
Mercantile Law Commission.

SECOND REPORT.

APPENDIX B.

APPENDIX B.

POINTS OF DIFFERENCE IN THE MERCANTILE LAWS.

ENGLAND AND IRELAND.

SALE OF GOODS.

Constitution of Contract.

1. No contract for the sale of goods, wares, or merchandize, for the price of 10*l.* or upwards, is good without some note or memorandum in writing of the bargain be made and signed by the party to be charged by such contract or his agent;

except there be delivery to, and acceptance by, the buyer of the whole or part;

or the buyer give something in earnest to bind the bargain, or in part of payment of the price.

29 Car. 2. c. 3. s. 17. (England)
7 Will. 3. c. 12. s. 13. (Ireland.)

The above-mentioned rule applies, although the goods are not to be delivered till a future time, or are not made at the time of the contract, or some act is requisite for rendering the goods fit for delivery. 9 Geo. 4. c. 14. s. 7.

And it applies, although the goods were sold by public auction.

Payment of Price.

2. On the other hand payment of the price may be proved by oral evidence only.

Effect of Contract on Ownership.

3. The property in specific goods ready for delivery passes to the buyer, on the making of the contract and before delivery.

4. If credit be not stipulated for, or if a stipulated term of credit has expired, the seller may retain possession till the price be paid, but not for a general balance arising from other transactions.

SCOTLAND.

SALE OF GOODS.

Constitution of Contract.

1. A contract for the sale of goods (with the exception of ships) is effectual without writing; whether the goods are, or are not specific and ready for delivery, or whether they are to be delivered immediately or at a future day.

And the contract may be established by oral or other legal evidence.

Payment of Price.

2. On the other hand payment of the price can be proved only by writing, or by the oath of the seller, or those in his right; unless in the case of a ready money transaction, where payment is part of the transaction, or the whole sum is under 100*l.* Scots (8*l.* 6*s.* 8*d.*)

Effect of Contract on Ownership.

3. The right of property in the goods sold does not pass to the buyer by the mere contract of sale, but remains with the seller until the goods are delivered.

Among other consequences of this principle,—

4. (1.) The seller may retain the goods, not only for the price, but also for a separate debt either then due or afterwards incurred to him by the buyer, and this right of retention is effectual even against an onerous sub-vendee.

ENGLAND AND IRELAND.	SCOTLAND.
SALE OF GOODS.	SALE OF GOODS.
5. If before delivery of the goods to the buyer the seller sell them (otherwise than in market overt), and deliver them to a third party, the first buyer has a remedy for the goods, or their value, against such third party, whether he had or had not notice of the first sale.	5. (2.) If before delivery of the goods to the buyer the seller sell and deliver them to a third party, the first buyer has no remedy against such third party, unless he establish fraud or collusion.
Sale before Execution against Seller.	*Sale before Diligence against Seller.*
6. After sale, and before delivery, whether the price has or has not been paid, the goods cannot be taken in execution by a creditor of the seller; but a creditor of the buyer may take the goods in execution while in the hands of the seller, subject to the seller's lien for the price, if unpaid. It is otherwise in bankruptcy, where the goods are left in the order and disposition of the vendor, as apparent owner, and he is made a bankrupt.	6. (3.) After the contract of sale and before delivery, whether the goods have, or have not, been paid for by the buyer, they may be taken in execution by a creditor of the seller, and such diligence gives the creditor a right to have the goods sold for his benefit; and the buyer is merely a creditor for the price, or so much of it as he may have advanced, and for damages, in so far as he may have sustained loss by not having had performance of the contract.
Sale after Execution against Seller.	*Sale after Diligence against Seller.*
7. An execution creditor of the seller may have a sale for his benefit of all his debtor's goods in the possession of the debtor at the time of delivery of the writ to the sheriff, notwithstanding a subsequent sale by the debtor to a *bonâ fide* purchaser, not in market overt.	7. But the execution creditor of the seller does not acquire the right to have the goods sold for his benefit, mentioned in No. 6,—although the warrant for execution may have been issued and placed in the hands of the officer,—until the goods are actually seized by poinding or arrestment.
Warranty.	*Warranty.*
8. Under circumstances such as those stated on the other side there is no implied warranty.	8. There is an implied warranty on the part of the seller, that the thing sold is fit for the purpose for which the seller knows that it was bought, even when the defects are unknown to the seller, and when the purchaser has had a full opportunity of inspecting the article.
Purchaser's remedy against Seller.	*Purchaser's remedy against Seller.*
9. The purchaser cannot, in general, enforce delivery of the goods purchased *specifically*, and his remedy practically resolves itself into a claim for damages, whether he sues specially for non-performance of the contract, or brings an action of detinue for the goods themselves, or an action for the conversion of them.	9. The purchaser's remedy is to obtain performance of the contract by delivery of the goods, and damages for unduly withholding delivery. If specific goods are sold, and in the possession of the seller, the purchaser may bring an action to enforce delivery. But not if the seller has become bankrupt; and in that case the purchaser's claim resolves into a personal demand for damages, and he will be ranked along with other personal creditors on the bankrupt estate.
Seller's remedy against Purchaser.	*Seller's remedy against Purchaser.*
10. When specific goods have been sold, the seller may sue the purchaser for the price. When the sale is not of specific goods, the seller must sue on the contract for the damages actually sustained.	10. The seller may sue the purchaser for the price and interest, whether the goods sold are specific or not, provided goods according to the contract have been tendered to the purchaser.

ENGLAND AND IRELAND.

SALE OF GOODS.

Auction.

11. The seller, *without giving notice* of his intention, may employ one person to make one or more biddings up to a fixed sum, to prevent the property being sold at an undervalue.

Sale of Stolen Goods.

12. Sale in market overt of stolen goods gives the purchaser an absolute right against the true owner, until the latter has prosecuted the thief to conviction.

DEBTOR AND CREDITOR.

Minors.

13. A person is not bound by, but he or she may enforce performance of, a contract entered into by him or her while under the age of twenty-one years, whether alone or in conjunction with others.

But a claim for necessaries furnished to a minor may be enforced against him or her.

Married Women.

14. If a married woman, living apart from her husband, and not possessed of separate estate, engage in trade, either alone or in partnership, she is not, nor is her husband, unless his consent be proved, liable in respect of any contract entered into by her in the course of such trading; subject, however, to the exception of the wife being liable, if the husband have abjured the realm, or been transported, or if her trade be carried on in the City of London.

Constitution of Debt.

15. A contract, not under the seal of the obligor, is incapable of being enforced by legal proceedings, unless it be supported by a consideration; the rule of the civil law, "*ex nudo pacto non oritur actio*," being a maxim of the law of England and Ireland. A consideration is presumed when the contract is under seal, and the want of consideration cannot be alleged by the obligor against this presumption.

SCOTLAND.

SALE OF GOODS.

Auction.

11. The seller is not entitled to bid, or to employ a person to bid on his behalf, unless he expressly announce at the time of the sale that he reserves such a right to bid.

Sale of Stolen Goods.

12. No purchaser of stolen goods can acquire an absolute right to them against the true owner.

DEBTOR AND CREDITOR.

Pupil and Minors.

13. *A pupil, i. e.* a male under fourteen, or a female under twelve, years of age, cannot enter into a contract with any effect whatever.

But a *minor* beyond those years, who acts as a trader, either alone or in partnership with others, is bound to pay debts contracted by him or her in such trade.

A claim for necessaries furnished to a pupil or minor may be enforced against him or her.

Married Women.

14. A married woman whose husband is living separate from her and out of the country, and who engages in trade, may create obligations or debts in carrying on her trading, which may be enforced against herself.

Constitution of Debt.

15. It is not essential to the validity of an obligation that it be granted for a valuable consideration, or indeed for any consideration whatever; the rule of the Civil Law, that no action arises from a naked paction, not being adopted in Scotland, and an obligation undertaken deliberately, although gratuitously, being binding.

ENGLAND AND IRELAND.	SCOTLAND.
DEBTOR AND CREDITOR.	DEBTOR AND CREDITOR.
16. Writing is essential to the legal proof of a contract of sale of goods for the price of 10*l.* sterling or upwards; except there be delivery to and acceptance by the buyer of the whole or part, or the buyer give something in earnest to bind the bargain or in part payment; and also to the legal proof of contracts of hiring of goods or services, of contracts of agency, and of contracts of partnership, which are not to be, or may not be, completely performed within a year from the making thereof. 29 Car. 2. c. 3. s. 17 & 4. (England.) 7 Will. 3. c. 12. s. 13. (Ireland.)	16. Writing is not essential to the constitution, or even to the proof of four different classes of contracts (being the consensual or nominate contracts of the civil law), viz., contracts of sale of goods (excepting ships), contracts of location or hiring of goods or services, contracts of mandate or agency, and contracts of society or partnership.
17. Writing is not essential to the legal proof of any commercial transaction, except as mentioned in the last preceding article (No. 16.)	17. All other commercial transactions (*res mercatoriæ*) can be proved only by the writing or oath of the party sought to be charged therewith. And a writing is sufficient for this purpose if the genuineness of its signature be admitted, or proved, although it be not authenticated with the solemnities required to validate probative writings. All transactions, other than those mentioned above and in No. 16, can be proved only by writings which are holograph of the makers or *probative, i.e.*, writings the signatures to which by the makers are attested by two subscribing witnesses, and in which are set forth the names and designations not only of these witnesses, but also of the writers of the instruments, and the number of pages of which the writings consist. But generally in such cases, even such writings, notwithstanding the want of these solemnities, may be validated by being followed by part performance, called *rei interventus.*
18. A party to an action or suit is not entitled to refer the truth of the matter in dispute to the oath of the opposite party, so as that the latter, if he decline to swear, shall be held to confess the claim of the former.	18. In the cases (No. 17.) where a mercantile transaction, although not *proveable* by oral evidence, is proveable by the oath as well as the writing of the party charged therewith, such oath consists of a deposition by one of the parties to a suit as to that transaction, proceeding on a judicial reference of the truth of the matter in dispute to the oath of that party by the opposite party. Such oath is conclusive as to the truth or falsehood of the matter so referred, and is not allowed to be contradicted by counter evidence, the reference being held to be a judicial contract to that effect. If the referee declines to swear on the reference he is held as confessed.
19. The signature in all writings must be proved on the part of the person adducing them in evidence.	19. The signature in all writings executed with the formalities prescribed by statute, and also in bills of exchange and promissory notes, is presumed to be genuine until the party calling it in question prove the contrary.

ENGLAND AND IRELAND.

DEBTOR AND CREDITOR.

SCOTLAND.

DEBTOR AND CREDITOR.

Writings holograph of the granters, or granted in commercial affairs, or followed by implement to some extent, are valid if the genuineness of the signature be proved, but not otherwise.

And all other kinds of writings granted by private parties are invalid, although signed by the granters, if the execution of them be not authenticated by the statutory formalities.

Transmissibility of Right to Debts.

20. A debt or other chose in action is not assignable at law; but it may be assigned in equity, without the consent of the debtor, and the assignee may discharge the debtor without the concurrence of the assignor. In an action at law for the debt the assignee must use the name of the original creditor, and the latter must allow his name to be used upon being indemnified. In a suit in equity for the debt the assignor must be a party as well as the assignee. The assignment is not effectual, for all purposes, without notice of it being given to the debtor.

Bills of exchange and promissory notes form an exception to these rules at law.

Transmissibility of Right to Debts.

20. A creditor may assign a debt owing to him without the consent of the debtor; and the assignee, in his own name, and without the concurrence of the assignor, may sue the debtor for payment, and discharge him. The assignation is completed by intimation thereof to the debtor.

21. In England, a judge upon the *ex parte* application of a creditor, who has obtained a judgment in one of the superior courts, may order that all debts owing or accruing to the judgment debtor from a third person shall be attached to answer the judgment debt; and service of the order of attachment upon such third person, or proper notice of it to him, binds such debts from him in his hands.

If such third person does not forthwith pay into Court the amount due from him to the judgment debtor, or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due from him to the judgment debtor, or if he does not appear upon summons, the judge may order execution to issue against such third person to levy the amount due from him; but if such third person disputes his liability, the judge may allow the judgment creditor to proceed against him for the amount due and costs of suit.

Common Law Procedure Act, 1854.

In Ireland, debts cannot be attached by the creditors of the parties to whom they are owing.

21. Debts may be taken in execution by the creditors of the parties to whom the debts are owing, by the diligence of *arrestment and forthcoming;* and the practical effect is to place such an execution creditor in the same position, substantially, as if he were the voluntary assignee to the debt, with a judgment in his favour against the party by whom it is owing.

Order of preference of Creditors.

22. In the distribution of the estates of insolvent debtors by the Court of Bankruptcy, or by the Courts for the Relief of Insolvent Debtors, creditors have no priority nor preference in respect merely of their claims resting on judgments, or specialty, but such claims are ranked in the same order with simple contracts.

Order of preference of Creditors.

22. Debts have no priority nor preference in respect of their merely being judgment debts, or being constituted by formal deeds; and such debts are ranked in the same order with simple contracts.

ENGLAND AND IRELAND.

DEBTOR AND CREDITOR.

In the administration of the estates of deceased persons debts are of different degrees of legal importance, as debts of record, debts by specialty, and debts by simple contract.

Assets are divisible into legal and equitable.

In the administration of legal assets, debts of a higher degree must be paid before those of an inferior degree; in the administration of equitable assets, all debts are payable *pari passu.*

23. Creditors of a deceased debtor may, by suit in chancery to which his heir or devisee is party, obtain payment of their debts out of his real estate at any time previous to alienation by the heir or devisee, and within the period of limitation applicable to such debts respectively.

24. Creditors who are not in a position to cause execution to issue against their debtors are not entitled to any proceeding to arrest their debtors' property or funds in security, however embarrassed such debtors may be in their circumstances.

25. An executor or administrator may, before proceedings are commenced against him, pay any creditor in full in preference to other creditors of an equal or inferior degree.

SCOTLAND.

DEBTOR AND CREDITOR.

23. If the real estate of a defunct, although it be in possession of his heir, be adjudged within three years after his death for his own debts, such adjudications are preferable to those which may be expede for the debts of the heir; but after the three years this privilege ceases, and the proper creditors of the heir may thereafter get a *pari passu* preference with the creditors of the defunct.

24. There are three cases in which a preference may be obtained for debts by the creditors using arrestments and inhibitions *in security* before they are in a position to use execution for obtaining payment.

(1.) Such diligence in security may be used by a creditor, who has instituted a suit for payment of the debt, at any time before judgment is obtained. The effect of it is to create a security for the debt, over the debtor's heritable property, in virtue of the inhibition, and over such of his personal funds as may be arrested. But such arrestment or inhibition in security may be removed as a matter of course, by the debtor finding security for the debt. And the Court of Session has a discretionary power to limit the effect of such diligence, or to recall it absolutely, or in caution to some extent, when this appears to be proper.

(2.) Such diligence in security may also be used even before the arrival of the term of payment of the debt, when there is reasonable ground for believing the debtor to be insolvent or in embarrassed circumstances (*vergens ad inopiam*), the Court of Session having discretionary power, as above mentioned, of preventing an abuse of the diligence.

(3.) The same course is competent for securing debts which are contingent as well as future; the Court of Session having the same power of checking any abuse of the diligence.

25. An executor cannot prefer any of the creditors over others who claim within six months after the debtor's death.

But the claimants within that period being satisfied, the executor may thereafter pay in full the other creditors as they apply.

ENGLAND AND IRELAND.

DEBTOR AND CREDITOR.

26. An executor or administrator can retain for a debt due to himself out of equitable assets only *pari passu* with other creditors, and out of legal assets only in preference to all other creditors of an equal or inferior degree.

27. And he cannot retain for a contingent or unliquidated debt due to himself.

Equalization of Debts.

28. All contracts, dealings, and transactions by and with any trader, subject to the bankrupt law, really and *bonâ fide* made and entered into before the date of the filing of the petition for adjudication of bankruptcy against him, are deemed valid, notwithstanding any prior act of bankruptcy committed by such trader, provided the person so dealing with him had not, at the time of such contract, dealing, or transaction, notice of any prior act of bankruptcy committed by such trader.

12 & 13 Vict. c. 106. s. 133.

But any payment or any delivery or transfer of any goods or chattels, or any conveyance, or equitable mortgage made or given by any trader, subject to the bankrupt law, to one of his creditors, *voluntarily* and in contemplation of bankruptcy, is deemed a fraudulent preference, and is invalid as against the other creditors of the trader, in case of his being adjudicated bankrupt.

In the case of a person who is not a trader subject to the bankrupt law, a voluntary transference of property by him to a creditor cannot be set aside at the instance of his other creditors, unless it be made by the debtor with the view of taking the benefit of some statute for the relief of insolvent debtors, and within three months before the filing by him of a petition for such relief.

SCOTLAND.

DEBTOR AND CREDITOR.

26. An executor may retain for a debt due to himself to the exclusion of all other creditors of the deceased who have not used diligence within six months after the death of the defunct.

27. And this even to the effect of securing himself in relief of engagements undertaken by him for the deceased.

Equalization of Debts.

Although payment of a debt is not challengeable merely because the debtor when he made it was insolvent, yet when the creditor, instead of payment, receives some other portion of his insolvent debtor's estate and effects in satisfaction or security of the debt, the subject of such satisfaction or security may, in certain circumstances, be rendered available to the other creditors whether the debtor be or be not a trader, and although he be not sequestrated nor even capable of being sequestrated, as a trader under the bankrupt law.

In particular,

28. (1.) When the insolvency of the debtor is made notorious by his imprisonment for debt (or by certain other means which are held to be equivalents for imprisonment), any such transference of his estate or effects, which is *voluntarily* granted by him in satisfaction or security—instead of payment—of a debt previously owing by him, may be set aside at the instance of any of his other creditors, to the effect of opening up to diligence and execution at the instance of such other creditor the subject of such conveyance, as if it had not been granted. And this is the case as to such transactions, whether completed after the imprisonment, or its equivalents, or within sixty days prior thereto.

Statute 1696. c. 5.

ENGLAND AND IRELAND.	SCOTLAND.
DEBTOR AND CREDITOR.	DEBTOR AND CREDITOR.
29. All executions and attachments against the lands and tenements of any trader, subject to the bankrupt law, executed by seizure, and all executions and attachments against the goods and chattels of any such trader bonâ fide executed and levied by seizure and sale, before the date of the filing of the petition for adjudication of bankruptcy against such trader, are deemed valid notwithstanding any prior act of bankruptcy committed by such trader, provided the person at whose suit or on whose account such execution or attachment was issued had not at the time of so executing or levying such execution or attachment, or at the time of making any sale thereunder, notice of any prior act of bankruptcy committed by such trader. 12 & 13 Vict. c. 106. s. 133. But any execution founded on a judgment on a warrant of attorney, or cognovit actionem, or judge's order obtained by consent, given by any trader, subject to the bankrupt law, *voluntarily* and in contemplation of bankruptcy, is deemed a fraudulent preference, and is invalid as against his other creditors, in case of his being adjudicated bankrupt. In the case of a person who is not a trader subject to the bankrupt law, a creditor of such person may retain the benefit of an execution issued by such creditor, as against other creditors; but in the case of the debtor filing a petition for the benefit of some act for the relief of insolvent debtors, only if the execution has been levied by seizure and sale before the filing of such petition.	29. (2.) When in such circumstances as are above stated a creditor operates payment of the debt out of the effects of the insolvent debtor by the *legal diligence of poinding*, or *arrestment and forthcoming*, the execution creditor may be compelled by any other creditor or creditors of the debtor to contribute to the latter a rateable share or shares of the effects so seized, or of the proceeds or value thereof. This is the case, however, only when the execution takes place within sixty days before or four months after the date of the insolvent debtor's imprisonment or its equivalents. Statute 54 Geo. 3. c. 137. ss. 2 & 5.
30. A transfer of goods by a debtor to any of his creditors in satisfaction or security of a *bonâ fide* debt is effectual against proceedings commenced against the debtor by another creditor, provided such transfer be made before the latter creditor has caused a writ of execution against the debtor's goods to be placed in the hands of the sheriff.	30. (3.) If an insolvent debtor, without having been subjected to such imprisonment or its equivalents, but after proceedings have been commenced and are in progress, at the instance of a creditor, for seizing his property and goods for payment of debt, should grant a conveyance of property and goods to another creditor in satisfaction or security of a prior debt, and should thereby frustrate the proceedings of the first-mentioned creditor against such property or goods, such first-mentioned creditor would be entitled to challenge and set aside such conveyance to the effect of leaving the subject thereof still open to diligence and execution at his instance. Statute 1621. c. 18.
31. A creditor, who has duly registered a judgment obtained by him in one of the Superior Courts is entitled to have his debt satisfied out of the real property of the debtor, in priority to all other creditors who have not previously registered judgments against such debtor.	31. (4.) If one creditor take the debtor's heritable estate in execution by the diligence called "adjudication," any other creditor, who, within a year after the date of such adjudication, shall also adjudge the same subject,is entitled to a rateable participation in the subject thereof. Statutes 1661. c. 62. and 1672. c. 19.

ENGLAND AND IRELAND.

DEBTOR AND CREDITOR.

32. When the personal property of a deceased debtor is not vested in an executor, a creditor of the deceased can take his effects in execution only by proceeding against an administrator of the deceased duly constituted, or, in the case of there being no such administrator, and no next of kin of the deceased being willing to accept a grant of administration, by obtaining a grant of administration to himself; and in the latter case he may be compelled to enter into articles to pay debts of equal degree with his own rateably without any preference of his own debt.

33. Exoneration of one of several joint debtors before breach would exonerate all; so would satisfaction from one after breach. So everything which gives one an answer to the action, except personal discharge, as in bankruptcy or insolvency. But a covenant not to sue one does not release the others.

34. Discharge of one of several co-debtors, whether bound jointly, or jointly and severally, in terms whch do not reserve the remedy against the other debtors operates as a discharge of all.

35. A judgment against one or more of several joint debtors extinguishes the claim against the other joint debtors.

36. Express discharge (without payment or performance) of contracts in writing not under seal may be oral.

PRINCIPAL DEBTOR AND SURETY.

37. A surety has not the benefit of "discussion." The creditor, having obtained judgment or decree, is at liberty to enforce payment against the surety, and, if there be two or more sureties, against any one of them exclusively; such surety being left to adjust with the principal, and with the other sureties (if any), his rights to exoneration or contribution.

38. The surety, on performing the obligation cannot have the benefit of such bonds or judgments by or against the principal debtor, or other like securities, as are extinguished by such performance.

39. An unqualified discharge of one co-surety is a discharge of all.

SCOTLAND.

DEBTOR AND CREDITOR.

32. (5.) A creditor of a deceased debtor, whose personal estate is not vested in an executor, may, immediately after the debtor's death, take his effects in execution by the appropriate diligence of "confirmation as executor creditor." But any other creditors, who expede similar confirmation within six months after the debtor's death, are entitled to a rateable participation in the subject of the first confirmation.

Act of Sederunt, 26 Oct. 1662.

33. Anything done by a creditor, whereby the right of relief, which one of several joint debtors is entitled to, is detrimentally affected, has the effect of extinguishing the creditor's claim against such debtor to that extent, but no further.

34. Discharge of one of several co-debtors does not release the others further than their right of relief against the party so discharged may be affected.

35. A judgment against one or more of several joint debtors does not operate as a discharge of the other joint debtors.

36. Express discharge (without payment or performance) of contracts in writing of any kind can be proved only by writing or oath on reference of the creditor.

PRINCIPAL DEBTOR AND CAUTIONER.

37. If in an engagement by principal and cautioner the latter have bound himself only as cautioner, and not also jointly and severally, or "as full debtor," the cautioner is entitled to have the principal "discussed," *i. e.* the cautioner cannot be compelled to pay the debt until the principal be charged on a judicial warrant to make the payment.

38. The cautioner, on performing the obligation, is entitled to an assignation of the creditor's claim on the principal debtor, and on co-cautioners, and of all the securities of every description held by the creditor from or against the principal debtor, and not subject to any other claim of the creditor

39. An absolute discharge of one co-cautioner operates as a discharge of the others only to the extent of the proportion which the one discharged should have contributed in the relief of the others.

ENGLAND AND IRELAND.

DEBTOR AND SURETY.

Guarantee—Evidence.

40. "Any special promise to answer for the debt, default, or miscarriage of another person," "must be in writing, signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized," in order that an action may be founded thereon.

29 Car. 2. c. 3. s. 4. (England.)
7 Will. 3. c. 12. s. 2. (Ireland.)

Guarantee—Consideration.

41. There must be a consideration for the guarantee, and such consideration must appear in the writing, or be the subject of well-grounded inference to be necessarily collected therefrom, but the consideration may be trifling.

Guarantee to or for a Firm.

42. A guarantee, whether *to* a firm or *for* a firm, consisting of two or more partners, ceases, in the general case, as to fresh transactions when a change takes place in the partners.

Guarantee—Discharge.

43. The discharge from a written guarantee may be proved without writing.

BILLS AND NOTES.

Form—Want of Date.

44. A bill or note blank as to date is deemed to be dated on the day of issue, of which oral evidence may be given.

Form—Negotiability.

45. A bill is not negotiable if it be not made payable "to order" or "to bearer."

Foreign or Inland.

46. In England a bill drawn on a party in Ireland or Scotland, and in Ireland a bill drawn on a party in England or Scotland, is a foreign bill.

It therefore requires protest, to preserve recourse against the drawer and indorsers, and the acceptance may be verbal or detached.

SCOTLAND.

PRINCIPAL DEBTOR AND CAUTIONER.

Guarantee—Evidence.

40. In general a mercantile guarantee can be proved only by writing, or by the oath of the cautioner. Yet it may be established by parol evidence where it is an integral part of a contract between the creditor and principal debtor, which may competently be proved by parol evidence.

Guarantee—Consideration.

41. The writing containing the guarantee need not show any consideration. And in general no consideration is necessary to the validity of the guarantee as against the cautioner.

Guarantee to or for a Firm.

42. There is some doubt how far a guarantee, whether *to* or *for* a firm, consisting of two or more partners, ceases upon a change taking place in the partners.

Guarantee—Discharge.

43. The discharge from a written guarantee can be proved only by the writing or oath of the creditor. But when the performance of the principal obligation admits of being proved by parol, such performance by the cautioner may be so proved.

BILLS AND NOTES.

Form—Want of Date.

44. If a bill or note be issued without date, the date can be proved only by written evidence; and summary diligence is not competent on such documents.

Form—Negotiability.

45. A bill is negotiable though not expressed to be payable "to order" or "to bearer."

Foreign or Inland.

46. A bill drawn on a party in England or Ireland is a foreign bill. Therefore notice of dishonour must be given by "next post."

ENGLAND AND IRELAND.

BILLS AND NOTES.

Acceptance.

47. Acceptance of an inland bill must be in writing on the bill.

But the name of the acceptor need not be signed.

48. Acceptance of a foreign bill may be verbal or detached.

Effect.

49. A bill has no operation to charge specific funds of the drawer in the hands of the drawee.

Protest.

50. An inland bill *may* be protested for nonacceptance or nonpayment.

9 & 10 Will. 3. c. 17. and 4 Anne, c. 9., (England),

9 Geo. 4. c. 24. s. 1. (Ireland),

but it is not imperative, and in practice a protest is seldom made.

Notice of dishonour.

51. Notice of dishonour by nonacceptance or nonpayment must be given within a reasonable time.

Reasonable time is, in the general case, the next post after the day of dishonour.

Remedy.

52. Payment of bills or notes can be enforced by an action only.

Upon nonappearance of the defendant within eight days of the service of a writ of summons specially indorsed, execution may issue after eight days from the last day for appearance; but if the defendant appear, the plaintiff can recover only by proceeding with his action.

15 & 16 Vict. c. 76. s. 27. (England),

16 & 17 Vict. c. 113. s. 96. (Ireland).

Evidence of Presentment.

53. Presentment may be proved by oral evidence.

Consideration.

54. Though bills and notes import consideration, yet the absence of consideration may be shown by any legal evidence.

SCOTLAND.

BILLS AND NOTES.

Acceptance.

47. Acceptance of an inland bill must be in writing on the bill, and signed acceptor.

48. Proof of a verbal promise to accept a bill is incompetent as to foreign as well as inland bills.

But a written promise on a separate paper to accept a foreign bill amounts to acceptance so as to ground an ordinary action, and complete the bill as an assignment, but not so as that summary diligence may be used.

Effect.

49. A bill operates as an assignment of a debt owing by the drawer to the drawee.

Protest.

50. Protest on the dishonour of an inland bill by nonacceptance, or nonpayment, is indispensable to preserve recourse against the drawer and indorsers.

Notice of dishonour.

51. Notice of dishonour given within fourteen days is sufficient to preserve recourse against the drawer and indorsers.

Remedy.

52. Payment of bills or notes may be enforced either by ordinary action or by summary diligence. The latter remedy is competent only on such bills and notes as are formal in all respects. It proceeds on a warrant for execution, issued on a protest recorded in the Register of the Court of Session, or of the Sheriff Court to whose jurisdiction the debtor is subject, within six months from the date of the bill if not accepted, and from the date of payment if not duly paid; and a charge, or requisition of payment, must be made on the debtor six full days before the execution can take place.

Evidence of Presentation.

53. Presentation cannot be proved by parol evidence, but by notarial protest only.

Consideration.

54. The presumption of onerous consideration given cannot be rebutted otherwise than by the writing or oath of the holder.

ENGLAND AND IRELAND.	SCOTLAND.
BILLS AND NOTES.	BILLS AND NOTES.
Transfer of overdue Bill.	*Transfer of overdue Bill.*
55. Indorsee of a bill overdue takes its subject to all the equities and objections to which it was subject in the hands of the indorser, as far as they are intrinsic to the bill, but not subject to collateral matter, such as a right of set-off against the former holder.	55. The indorsee of a bill overdue is not subject to latent objections attaching to the bill, if there be no marks of dishonour on the bill and nothing suspicious in the transaction.
Evidence of Discharge.	*Evidence of Discharge.*
56. The liability of any party to a bill or note may be discharged orally before it becomes payable. And perhaps after it has become payable.	56. Express discharge of any party to bill or note from liability upon it can only be proved by writing or oath on reference.
Lost or Stolen.	*Lost or Stolen.*
57. Proof that the bill has been lost, stolen, or fraudulently obtained, throws upon the holder the onus of showing that he gave consideration for it.	57. Notwithstanding that the bill or note is shown to have been lost or stolen, the onus is on the party sought to be charged to show that the holder gave no consideration.
BAILMENT.	DILIGENCE PRESTABLE.
Carriers.	*Carriers.*
58. Are liable for loss by accidental fire to goods in their care.	58. Are not liable for loss by accidental fire to goods in their care.
Hiring of Goods.	*Hiring of Goods.*
59. In case of injury, the *onus probandi* of negligence in the hirer is on the owner.	59. In case of injury, the *onus probandi* of there having been no negligence in the hirer lies on him.
SHIPPING.	SHIPPING.
60. The owners of a partial interest (however great) in a ship cannot enforce a sale of it by process of law against the other owners.	60. The owners of the half or of a majority of the shares of a ship may have her sold judicially, by public roup or auction.
61. There is no such legal right as that stated on the other side.	61. Any one part-owner has an action of *set and sale* against the others, to the effect that they either shall purchase his share at a price which he names, or shall sell their shares to him at the same rate; or otherwise that the ship shall be sold by public roup or auction.
62. Seamen have no lien for their wages on freight, after the cargo has been removed from the ship.	62. Seamen who have navigated a ship in any voyage have a preference in ranking on the freight earned in that voyage.

ENGLAND AND IRELAND.

PARTNERSHIP.

Private Partnerships—Their Nature.

63. A private partnership of two or more persons is not recognised in law separately from the associated individuals who compose it, except in Ireland in the case of partnerships formed under the Anonymous Partnership Act. 21 & 22 Geo. 3. c. 46.

64. In an action at common law by or against a private partnership, all the partners must be individually named and served with process, if the defendant insists. This, however, he must do in such a time and with such formalities as render it impossible when the partners are numerous.

65. In suits in equity by or against a partnership, every member must be named, and (if a defendant) must be served with process, unless where the number of partners is so great as to render this impracticable, in which case a few may sue or be sued as representing the general body of partners.

66. A private partnership cannot sue, or be sued, by any of its members, except in a court of equity.

67. Two private partnerships, having one or more member or members in common, cannot sue each other, except in a court of equity.

68. A joint adjudication in bankruptcy against co-partners vests in the assignees, and renders subject to distribution under it, not only the joint property of the partnership, but also the separate property of the individual partners; subject, however, as to the latter, to the satisfaction in full of their separate debts.

Powers of Partners.

69. Pending an action or suit by co-partners, one or more of them may gratuitously release the defendant from the whole cause of the action or suit.

And a defence valid as against one of the co-partners is available as against all of them in an action by the co-partners.

70. In general a partner cannot bind his co-partners by instrument under seal.

SCOTLAND.

PARTNERSHIP.

Private Partnerships—Their Nature.

63. A private partnership, or company, of two or more partners, is a *separate person* in law.

It follows from this principle (among other consequences) that,—

(1.) The funds of the partnership belong, not to the partners as joint owners, but to the company itself as sole owner.

(2.) The company itself is the proper debtor in debts owing by the partnership; and the partners individually, although they also are liable for those debts, are liable for them as proper debts of the company, as third party.

64. (3.) In suits by or against the partnership,

If the name of the company comprise the names of persons only, the company itself may sue, or be sued, by that name, and no member need be named or served;

65. (4.) But if the company be anonymous, *i. e.*, have no denomination but what is descriptive of its object, the names of three, at least, of the members must be used along with the descriptive name of the company.

66. (5.) The company may stand in the position of creditor or debtor of any of its partners, and can sue, and be sued, by any of its members.

67. (6.) Two companies having one or more members in common may sue each other.

68. (7.) A company may be sequestrated without the individual partners being sequestrated. And in the event of its becoming insolvent, although not sequestrated, the rules as to equalization of debts mentioned under the head of DEBTOR AND CREDITOR (Nos. 28–32) would be applicable.

Powers of Partners.

69. Pending a suit by a company, one of the partners cannot release the defendant.

And a defence, which would be valid against one of the partners, would not for that reason only be available against the company and the other partners.

70. In general a partner may bind his co-partners in any form in which he can bind himself.

ENGLAND AND IRELAND.

PARTNERSHIP.

Set-off.

71. In a proceeding against co-partners as such, a debt due from the plaintiff to one or more of the co-partners cannot be set off against the claim of the plaintiff.

72. In a proceeding against one of the co-partners for a debt owing by him individually to the plaintiff, a debt due from the plaintiff to the partnership cannot be set off against the claim of the plaintiff.

Dissolution.

73. A dormant partner on retiring from the partnership, in order to avoid liability for the subsequent engagements of his co-partners, must give special notice of his retirement to those persons then having relations with the partnership who were aware of his connexion with it; but he need not give notice to any other persons either specially or by public advertisement.

Regulation of Joint Stock Companies.

74. All commercial joint stock companies with transferable shares, and all partnerships consisting of more than twenty-five members, and all insurance companies formed since 1st November 1844, not under any special Act of Parliament or letters patent, (except mining partnerships on the cost-book principle, and anonymous partnerships in Ireland under 21 & 22 Geo. 3. c. 46. s. 2.,) must be registered, and must make periodical returns, pursuant to 7 & 8 Vict. c. 110. amended by 10 & 11 Vict. c. 78.

7 & 8 Vict. c. 110. ss. 63, 64.

75. Upon complete registration, every such company becomes incorporated by the name of the company set forth in its deed of settlement, and for the purpose of carrying on the trade or business for which it was formed, but only according to the provisions of 7 & 8 Vict. c. 110. and 10 & 11 Vict. c. 78. and of its deed of settlement, and for the purpose of suing and being sued, and of taking and enjoying the property and effects of the company. s. 25.

SCOTLAND.

PARTNERSHIP.

Set-off.

71. A partner when sued for a company debt, as he is liable for it in solido, may set off against the claim a debt owing to him by the pursuer.

And even the company itself, when it is sued for such a debt, may, with the concurrence of the partner who has a counter claim against the pursuer, set off that counter claim against the debt sued for.

72. A partner, when sued for a debt owing by him individually to the pursuer, may with the concurrence of the other partners, set off against the claim of the pursuer a counter claim of the company against the pursuer.

Dissolution.

73. A dormant partner on retiring from the partnership, in order to avoid liability for the subsequent engagements of his co-partners, must give special notice of his retirement to all persons then having relations with the partnership, whether they were or were not aware of his connexion with it, and also public notice by advertisement.

Regulation of Joint Stock Companies.

74. By the common law, joint stock companies with transferable shares are legal without the authority of the Legislature, or the Crown, or the Board of Trade, and without registration;

with the exception of

banking companies established since 9th August 1845, in virtue of 9 & 10 Vict. c. 75. (extending to Scotland the operation of 7 & 8 Vict. c. 113);

and Scottish joint stock companies having a place of business in any other part of the United Kingdom. 7 & 8 Vict. c. 110. s. 2.

75. Companies can be incorporated by special Act of Parliament, or by letters patent only.

A joint stock company not incorporated cannot sue or be sued by its assumed name, unless three or more of the partners be joined with the company itself in the suit.

ENGLAND AND IRELAND.

PARTNERSHIP.

76. Previous to *provisional* registration, there is a prohibition under a penalty against the taking any money for shares allotted or to be allotted, and the issuing in the name or on the behalf of the company, any writing to denote a right or claim, or preference or promise to any shares, and the advertising the existence or proposed formation of the company, and the making any contract for or on behalf of the intended company. s. 24.

Previous to *complete* registration, there is a prohibition against making calls, except for the purpose of making deposits not exceeding 10*s.* in the 100*l.*, and against purchasing, contracting, or holding lands, and against entering into contracts for services, works, or stores, except conditionally, or for matters required for the establishing of the company. s. 23.

There is a prohibition under a penalty against the disposal of shares by sale or mortgage previous to *complete* registration of the company, and registration of the owner as the shareholder. s. 26.

77. Previous to *complete* registration, a deed of settlement must be executed by at least one fourth in number of the persons who have then become subscribers, holding at least one fourth of the maximum number of shares in the capital of the company.

Such deed of settlement must be framed in accordance with the provisions of 7 & 8 Vict. c. 110.

It must set forth the name, purpose, and place or places of business of the company, and the names of the then subscribers and directors; and must provide, amongst other things,

1. For the holding of meetings of the company and the proceedings thereat;
2. For the direction and execution of the affairs of the company and the recording of its proceedings;
3. For the amount of original capital and of proposed additional capital, if any, and its division into shares and the mode and time of payment;
4. The extent and mode of borrowing money and contracting debts;
5. The duration of the company and the mode or condition of its dissolution.

s. 7. and schedule A.

A register of shareholders must be kept and be open to inspection; ss. 49, 50.

Certificates of shares under the common seal are primâ facie evidence of ownership; ss. 51, 52.

Transfers of shares are authorised and regulated; s. 54.

The recovery by the company of instalments on shares is provided for; s. 55.

SCOTLAND.

PARTNERSHIP.

76. The several matters mentioned as being prohibited in England and Ireland by 7 & 8 Vict. c. 110. are not illegal in Scotland; companies established in Scotland, unless they have a place of business in some other part of the United Kingdom, being excepted from the operation of that statute. s. 2.

77. Joint stock companies, the capital whereof is divided or agreed to be divided into shares, and so as to be transferable without the express consent of all the copartners, and companies consisting of more than twenty-five members, may be formed without a deed of settlement, if they have not a place of business in any other part of the United Kingdom, as well as in Scotland.

ENGLAND AND IRELAND.

PARTNERSHIP.

78. A judgment, decree, or order against a company completely registered under 7 & 8 Vict. c. 110. has no effect against a former shareholder of the company after the expiration of three years next after he shall have ceased to be a shareholder; s. 66.

79. Shares in joint stock companies transferable without the concurrence of the other co-partners can be transferred by deed under seal only.

7 & 8 Vict. c. 110. s. 54.

Companies Clauses Consolidation Act.

80. S. 14. Shares are transferable by deed under seal only.

Winding up.

81. Every partnership, association, and company, whereof the partners or associates are not less than seven in number, and whether incorporated or unincorporated, may be compulsorily wound up and dissolved without suit, by *summary proceedings in Chancery*, if it shall have committed certain specified acts of bankruptcy, or in certain other specified events, or if any other matter or thing shall be shown which in the opinion of the Court shall render it just and equitable that the company should be dissolved.

11 & 12 Vict. c. 45.
12 & 13 Vict. c. 108.

In certain cases companies may be compulsorily wound up *in Bankruptcy*, and the Crown may determine incorporated companies.

7 & 8 Vict. c. 111. (England).
8 & 9 Vict. c. 98. (Ireland).

SCOTLAND.

PARTNERSHIP.

78. Persons who were members of a joint stock company with transferable shares at the time when a particular debt or engagement was contracted by the company, and were personally liable for such a debt or engagement, continue liable to diligence in respect to that debt or engagement indefinitely, though they cease to be members by transfer of their shares.

79. Shares in unincorporated joint stock companies transferable without the concurrence of the other co-partners may be transferred without a deed under seal, if not otherwise prescribed by the contract of co partnery.

Companies Clauses Consolidation Act.

80. S. 14. Shares are transferable by deed with or without seal.

Winding up.

81. If a company be carrying on business in Scotland in certain occupations which would render an individual liable to sequestration, and one or more of the partners have been rendered notour bankrupt for a company debt, such company can be wound up by *sequestration.*

There are no winding-up Acts in operation in Scotland; but, on the application of all or any of the partners, the Court of Session will appoint a judicial factor, with power to wind up the affairs of the company, and to sue in the name of the company.

ENGLAND AND SCOTLAND.

Limited Liability.

82. Limited liability on the part of individual members for partnership engagements can be enjoyed only when it is expressly stipulated for in the particular engagement, or when it is conferred by special authority of Parliament, or of the Crown, or of the Board of Trade.

IRELAND.

Limited Liability.

82. Partnerships, one or more of the members of which (being non-acting) are to enjoy limited liability for partnership engagements, may be formed, without the direct sanction of Parliament, or the Crown, or the Board of Trade, under the authority and subject to the regulation of the Anonymous Partnership Act, 21 & 22 Geo. 3. c. 46. (Irish.)

ENGLAND AND IRELAND.	SCOTLAND.
LIMITATION OF ACTIONS.	LIMITATION OR PRESCRIPTION.
Effect of Lapse of Time.	*Effect of Lapse of Time.*
83. All remedy by action or suit to enforce a claim ceases at the expiration of the statutory period of limitation.	83. Lapse of the period of prescription (except in the case of certain cautionry obligations, and in cases falling under the prescription of forty years, as mentioned below) does not, in the first instance, deprive the creditor of the right of action to enforce payment or performance of his claim; but on the expiry of certain short periods the proof of claims in mercantile transactions becomes limited to the writing or oath on reference [*vide* Debtor and Creditor, No. 18.] of the debtor or obligor.
84. But the expiration of the statutory period of limitation does not *extinguish* the claim; consequently the creditor may avail himself of a continuing lien on property of the debtor in his hands.	84. But ultimately it entirely *extinguishes* the claim.
Period of Limitation.	*Period of Prescription.*
85. The statutory period of limitation, after which all remedy by action or suit ceases, expires, 1. If the claim rest on a document not under seal, or on a verbal contract merely, at the end of *six years*, 2. If the claim rest on a document under seal, or on a judgment, at the end of *twenty years*, from the time at which the right to sue first accrues; or in cases of disability existing at that time, from the termination of the disabilty.	85. The proof is so restricted to the writing or oath on reference of the debtor or obligor, 1. Of claims for house rents, board or aliment, servants' fees, merchants' accounts, and other debts of the like kind, not founded on written obligations, at the end of *three years*. Statute 1579. c. 83. 2. Of claims on those bargains concerning moveables, or sums of money, which originally are proveable by witnesses, at the end of *five years*. Statute 1669. c. 9. 3. Of claims on bills of exchange or promissory notes, at the end of *six years*. Statute 12 Geo. 3. c. 72. 4. Of claims on holograph missive letters and holograph bonds, and subscriptions in account books without witnesses, at the end of *twenty years*, the proof in this class of cases being limited to the oath of the debtor. Statute 1669. c. 9. And, if prescription be not suspended or interrupted during its currency, all mercantile claims are entirely extinguished at the end of *forty years* from the date of payment or performance. Statutes 1469. c. 28. & 1474. c. 54. But cautioners in a certain class of bonds or contracts for sums of money are bound only for *seven years*. Statute 1695. c. 5.
86. In all accounts, except those which are within the exception of "such accounts as "concern the trade of merchandize between "merchant and merchant, their factors or "servants," the legal remedy, in general, ceases as to any item more than six years old, though there be items less than six years old. 21 Jac. 1. c. 16. s. 3. (England). 16 & 17 Vict. c. 113. s. 20. (Ireland).	86. The legal remedy continues unaffected as to all the items of an open account, if one of the items be within the period of prescription (three years), and if that period have not run out between any two consecutive items.

ENGLAND AND IRELAND.

LIMITATION OF ACTIONS.

87. The exception of merchants' accounts does not include any account in which the items are all on one side.

Disability—Absence.

88. If either the creditor or the debtor be "beyond seas" at the time the right to sue becomes absolute, the period of limitation does not commence until the return of the absent party.

The absence of one of several joint *creditors* does not prevent the period commencing.

But the absence of one of several joint *debtors* does prevent the commencement of the period.

In Ireland neither the creditor nor the debtor is deemed to be "beyond seas," if he be in any other part of the United Kingdom, the Isle of Man, or the Channel Islands. 16 & 17 Vict. c. 113. s. 4.

In England the *creditor* is not deemed to be "beyond seas," if he be in any other part of the United Kingdom, the Isle of Man, or the Channel Islands. 21 Jac. 1. c. 16. s. 7. and 3 & 4 Will. 4. c. 42. s. 7. Nor is the *debtor* if he be in Scotland; but if he be in Ireland, the Isle of Man, or the Channel Islands, when the creditor's right accrues, he is deemed to be "beyond seas;" and the creditor has a period of six years in which to bring his action after the debtor's return.

4 & 5 Anne, c. 16. s. 19.

Disability—Minority.

89. Minors have six years after attaining majority in which to enforce their claims, not derived from others.

Disability—Coverture.

90. The period of limitation does not run against married women during their coverture, whether the claim be against the husband, or a third party.

Disability—Imprisonment.

91. In England imprisonment of the creditor at the time the cause of action accrues is a disability in regard to simple contract debts, other than those referred to in 3 & 4 W. 4. c. 42. s. 3.

In Ireland imprisonment has, since the 16 & 17 Vict. c. 113., ceased to be a disability, in regard as well to all simple contract debts as to debts on specialties.

SCOTLAND.

LIMITATION OR PRESCRIPTION.

87. And such remedy continues, even where all the items are on one side of the account.

Disability—Absence.

88. The mere absence of the creditor "beyond seas" is not a valid answer to a plea of prescription, as it does not incapacitate him from suing for the claim, nor is the mere absence of the debtor a valid answer to such a plea.

Disability—Minority.

89. Minors are protected by statute against the operation during their minority of the prescriptions before mentioned, except the triennial and septennial.

Disability—Coverture.

90. Coverture does not prevent prescription from running against the claims of married women upon third parties; but it does in regard to claims against their husbands.

Disability—Imprisonment.

91. Imprisonment is no bar to the currency of the period of prescription when it has taken place within the kingdom; but it has been doubted whether it is not a *non valentia agendi* when it has taken place abroad.

ENGLAND AND IRELAND.

LIMITATION OF ACTIONS.

Acknowledgment.

92. No acknowledgment of a debt will be effectual to keep it alive, or to revive it unless it be in writing, and contain a promise, express or implied, to pay the debt.
9 Geo. 4. c. 14. s. 1. (England and Ireland).
16 & 17 Vict. c. 113. s. 24. (Ireland).

Such acknowledgment is effectual, whether it be made within the period of limitation, or after it has expired.

93. The acknowledgment must be signed by "the party chargeable thereby," and the signature of his agent is insufficient.

94. The acknowledgment must be made to the creditor or his agent.

95. An *acknowledgment* by one co-contractor does not keep alive the claim as against the others.
9 Geo. 4. c. 14. s. 1.

But *part payment* by one co-contractor will keep alive or revive the claim against the others.

96. When a debt is kept alive or revived by an acknowledgment, it runs a new course of limitation from the date of the acknowledgment—twenty years on specialties, and six years on simple contracts.

SCOTLAND.

LIMITATION OR PRESCRIPTION.

Acknowledgment.

92. An acknowledgment of a debt may be established either by the writing of the debtor or by his admission on "oath of reference."

An acknowledgment made *within* the period of short prescription, does not exclude nor interrupt the prescription.

But if the acknowledgment be made *after* the period of short prescription is completed, it will be effectual to prove the debt, if the acknowledgment be clear, although it contain no promise to pay.

93. A memorandum written by the debtor may in some cases be sufficient, though not signed by him; and an agent duly authorized may make an effectual acknowledgment in writing.

94. It is not indispensable in all cases that the acknowledgment should be made to the creditor or his agent.

95. An acknowledgment, or a partial payment by one co-contractor, will not keep alive or revive the claim against the others.

96. The written acknowledgment of a debt bars the shorter prescriptions altogether, so that the debt will endure for forty years, or for the period of prescription applicable to the document containing it; except in regard to the sexennial prescription for bills of exchange, as to which the acknowledgment prescribes in six years.